

TITLE 210 DEPARTMENT OF CORRECTION

ARTICLE 1. GENERAL PROVISIONS

Rule 1. Implementation of Interstate Compact on Juveniles

210 IAC 1-1-1 Purpose of rules and regulations; meaning of words and phrases

Authority: IC 11-8-2-5; IC 11-8-2-10

Affected: IC 31-6-10

Sec. 1. The purpose of these rules and regulations [210 IAC 1-1] is to implement the Interstate Compact on Juveniles to the end that uniformity of procedures may be established by the party states. All words and phrases as used in these rules and regulations [210 IAC 1-1] shall have the same meanings as in the compact except where the context clearly requires a different interpretation. (*Department of Correction; Preamble; filed May 13, 1958, 2:20 pm; Rules and Regs. 1959, p. 40; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269*)

210 IAC 1-1-2 Representation of state under compact; coordinate jurisdictions

Authority: IC 11-8-2-5; IC 11-8-2-10

Affected: IC 31-6-10

Sec. 2. Wherever practicable a single state agency shall represent the state in dealing with other states under the compact and all correspondence and communications relating to matters arising under the compact and under these rules and regulations [210 IAC 1-1] shall be conducted with such agencies. Where there are several agencies having coordinate jurisdiction, respective agencies shall work out such methods of intercommunication and procedure as may be appropriate and convenient. (*Department of Correction; Sec 1; filed May 13, 1958, 2:20 pm; Rules and Regs. 1959, p. 40; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269*)

210 IAC 1-1-3 Forms; adoption by compact administrator

Authority: IC 11-8-2-5; IC 11-8-2-10

Affected: IC 31-6-10

Sec. 3. The Compact Administrator may adopt the forms utilized by the Interstate Compact on Juveniles. (*Department of Correction; Sec 2; filed May 13, 1958, 2:20 pm; Rules and Regs. 1959, p. 40; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269*)

210 IAC 1-1-4 Progress reports by receiving state

Authority: IC 11-8-2-5; IC 11-8-2-10

Affected: IC 31-6-10

Sec. 4. The receiving state shall furnish the sending state with such progress reports and other information concerning juveniles being supervised on parole or probation pursuant to the compact as the sending state may, from time to time, require. The receiving state may also forward such additional information as, in its judgment, is necessary and desirable. (*Department of Correction; Sec 3; filed May 13, 1958, 2:20 pm; Rules and Regs. 1959, p. 40; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269*)

210 IAC 1-1-5 Supervision standards and disciplinary treatment of receiving state apply; visits outside receiving state

Authority: IC 11-8-2-5; IC 11-8-2-10

Affected: IC 31-6-10

Sec. 5. The same standards of supervision as apply in the receiving state in the supervision of its own juvenile parolees and probationers shall apply to out-of-state juvenile parolees and probationers sent there under the terms of the compact and such out-of-state parolees and probationers shall, as far as practicable, in all respects be subject to the same disciplinary treatment as the receiving state applies to its own juvenile parolees and probationers. In appropriate cases, the receiving state is authorized to grant to the juvenile parolee or probationer permission to make temporary visits out of the receiving state. (*Department of Correction; Sec 4; filed May 13, 1958, 2:20 pm; Rules and Regs. 1959, p. 41; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269*)

210 IAC 1-1-6 Schools or institutions of receiving state; supervisory duties

Authority: IC 11-8-2-5; IC 11-8-2-10
Affected: IC 31-6-10

Sec. 6. Any juvenile parolee or probationer sent to an approved or accredited suitable private school or other institution in the receiving state may be supervised by the authorities of said school or institution and in such event, the receiving state shall be deemed to meet its obligations under the compact if it takes reasonable steps to keep itself informed concerning the suitability of the school or institution and, upon request of the sending state, renders such assistance as may be necessary in securing and maintaining appropriate contact with and cooperation from the school or institution. (*Department of Correction; Sec 5; filed May 13, 1958, 2:20 pm; Rules and Regs. 1959, p. 41; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269*)

210 IAC 1-1-7 Report of parole or probation violations; return of juvenile

Authority: IC 11-8-2-5; IC 11-8-2-10
Affected: IC 31-6-10

Sec. 7. The receiving state shall promptly upon a parole or probation violation notify the sending state. Such reports should specify in detail the violation, and if a crime or act of juvenile delinquency has been committed, shall, wherever possible, give both the official and juvenile's version of the act. Wherever practicable, it should be accompanied by a recommendation of the receiving state. In returning any juvenile, the receiving state shall cooperate with the sending state pursuant to statute. (*Department of Correction; Sec 6; filed May 13, 1958, 2:20 pm; Rules and Regs. 1959, p. 41; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269*)

210 IAC 1-1-8 Discharge of juvenile; report and recommendations by receiving state; early discharge

Authority: IC 11-8-2-5; IC 11-8-2-10
Affected: IC 31-6-10

Sec. 8. Upon request of the sending state for a progress report with recommendation prior to consideration of the case for discharge, the receiving state shall prepare and transmit such report. In cases where there has been a discharge from parole or probation or a change in the status of the parolee or probationer, the sending state shall forthwith notify the receiving state of such change. However the sending state shall not discharge any juvenile parolee or probationer before the expiration of the maximum time permissible for supervision pursuant to the adjudication of delinquency unless the receiving state shall agree to such earlier discharge. (*Department of Correction; Sec 7; filed May 13, 1958, 2:20 pm; Rules and Regs. 1959, p. 41; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269*)

210 IAC 1-1-9 Uniform rules and regulations adopted by reference

Authority: IC 11-8-2-5; IC 11-8-2-10
Affected: IC 31-6-10

Sec. 9. The Uniform Rules and Regulations as adopted by Compact Administrators are hereby adopted by reference. (*Department of Correction; Sec 8; filed May 13, 1958, 2:20 pm; Rules and Regs. 1959, p. 41; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269*)

Rule 2. Work Release Program (Repealed)

(*Repealed by the Department of Correction; filed Oct 1, 1987, 4:00 pm: 11 IR 566*)

Rule 3. Work Release-Study Release Inmate Furloughs (Repealed)

(*Repealed by the Department of Correction; filed Oct 1, 1987, 4:00 pm: 11 IR 566*)

Rule 4. Transfer of Inmate to Mental Hospital for Psychiatric Care

210 IAC 1-4-1 Mental examination of inmate; report by psychiatrist

Authority: IC 11-8-2-5; IC 11-8-2-10
Affected: IC 11-10-4

Sec. 1. Any psychiatrist, employed by the Department of Correction, after examining an inmate of a correctional/penal institution, shall make a detailed report of the examination to the Commissioner of the Department of Correction or his designee. (*Department of Correction; Psychiatric Transfers Rule 1; filed Aug 23, 1974, 3:31 pm: Rules and Regs. 1975, p. 226; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269*)

210 IAC 1-4-2 Contents of psychiatrist's report

Authority: IC 11-8-2-5; IC 11-8-2-10
Affected: IC 11-10-4

Sec. 2. The psychiatrist's report shall include:

- (a) The diagnosis arrived at by the psychiatrist;
- (b) the signs, symptoms, and conditions on which the diagnosis is based;
- (c) a complete history of the inmate, as far as it is obtainable; and,
- (d) the psychiatrist's recommendation for disposition.

(*Department of Correction; Psychiatric Transfers Rule 2; filed Aug 23, 1974, 3:31 pm: Rules and Regs. 1975, p. 226; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269*)

210 IAC 1-4-3 Need for care and treatment; determination by commissioner

Authority: IC 11-8-2-5; IC 11-8-2-10
Affected: IC 11-10-4

Sec. 3. The Commissioner of the Department of Correction or his designee, after receipt of the psychiatrist's report, shall make an administrative determination based upon the need of the inmate for care and treatment in a mental hospital. (*Department of Correction; Psychiatric Transfers Rule 3; filed Aug 23, 1974, 3:31 pm: Rules and Regs. 1975, p. 226; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269*)

210 IAC 1-4-4 Transfer order; inmate's right to hearing

Authority: IC 11-8-2-5; IC 11-8-2-10
Affected: IC 11-10-4

Sec. 4. If the Commissioner of the Department of Correction or his designee determines that the inmate is in need of psychiatric care and treatment, he shall order that the transfer be made and fully advise the inmate in writing of his right to a pre-transfer hearing in order to determine the need for the transfer. (*Department of Correction; Psychiatric Transfers Rule 4; filed Aug 23, 1974, 3:31 pm: Rules and Regs. 1975, p. 226; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269*)

210 IAC 1-4-5 Appointment of pre-transfer hearing officer

Authority: IC 11-8-2-5; IC 11-8-2-10
Affected: IC 11-10-4

Sec. 5. A hearing officer will be appointed for each pre-transfer hearing by the Commissioner of the Department of Correction. (*Department of Correction; Psychiatric Transfers Rule 5; filed Aug 23, 1974, 3:31 pm: Rules and Regs. 1975, p. 226; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269*)

210 IAC 1-4-6 Written request for pre-transfer hearing; time limit

Authority: IC 11-8-2-5; IC 11-8-2-10
Affected: IC 11-10-4

Sec. 6. The inmate shall have a period of five days in which to request in writing that the pre-transfer hearing be held. This should be sent to the Commissioner of the Department of Correction or his designee. (*Department of Correction; Psychiatric Transfers Rule 6; filed Aug 23, 1974, 3:31 pm; Rules and Regs. 1975, p. 226; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269*)

210 IAC 1-4-7 Initiation of transfer proceeding when no request for hearing

Authority: IC 11-8-2-5; IC 11-8-2-10

Affected: IC 11-10-4

Sec. 7. If no request in writing is received for a pre-transfer hearing within the five-day limitation, the Commissioner of the Department of Correction or his designee shall initiate the transfer proceedings. (*Department of Correction; Psychiatric Transfers Rule 7; filed Aug 23, 1974, 3:31 pm; Rules and Regs. 1975, p. 226; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269*)

210 IAC 1-4-8 Standards for pre-transfer hearing

Authority: IC 11-8-2-5; IC 11-8-2-10

Affected: IC 11-10-4

Sec. 8. If the Commissioner of the Department of Correction or his designee receives the written request for a pre-transfer hearing, the following minimum standards will be followed:

(a) Notice shall be given to the inmate informing him/her of time, place, and reason for the hearing at least seven days prior to the hearing, and must be given in both written and verbal form;

(b) a copy of the psychiatrist's report, with a recommendation for transfer, shall be given to the inmate at the time the notice of hearing is given;

(c) the inmate shall have the right to appear in person in order to present evidence and to cross-examine witnesses. He/she may be represented by counsel or other personal representation;

(d) a written decision must be impartially reached upon the evidence presented at the hearing, and stating the evidence relied upon in reaching that decision;

(e) one copy of the written decision and the hearing proceedings shall be retained in the inmate's packet.

(*Department of Correction; Psychiatric Transfers Rule 8; filed Aug 23, 1974, 3:31 pm; Rules and Regs. 1975, p. 226; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269*)

210 IAC 1-4-9 Waiver of pre-transfer hearing

Authority: IC 11-8-2-5; IC 11-8-2-10

Affected: IC 11-10-4

Sec. 9. If the inmate agrees that he/she is in need of care and treatment at a mental hospital, he/she may sign a waiver of personal rights for this instance only. In the case of a juvenile, this waiver may be signed by the parents or legal guardian, in which case the transfer proceedings may be initiated. (*Department of Correction; Psychiatric Transfers Rule 9; filed Aug 23, 1974, 3:31 pm; Rules and Regs. 1975, p. 227; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269*)

210 IAC 1-4-10 Notice of hearing officer's recommendation

Authority: IC 11-8-2-5; IC 11-8-2-10

Affected: IC 11-10-4

Sec. 10. If, after the hearing, the hearing officer determines that the inmate is in need of care and treatment in a mental hospital, he shall notify the Commissioner of the Department of Correction or his designee, who shall then initiate the transfer proceedings. (*Department of Correction; Psychiatric Transfers Rule 10; filed Aug 23, 1974, 3:31 pm; Rules and Regs. 1975, p. 227; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269*)

210 IAC 1-4-11 Notice and report of transfer to mental health commissioner

Authority: IC 11-8-2-5; IC 11-8-2-10

Affected: IC 11-10-4

Sec. 11. If it has been determined that a transfer is necessary, the Commissioner of the Department of Correction or his designee shall notify the Commissioner of the Department of Mental Health or his designee of that fact, and shall then submit to the Commissioner of the Department of Mental Health or his designee a detailed report of the case. (*Department of Correction; Psychiatric Transfers Rule 11; filed Aug 23, 1974, 3:31 pm: Rules and Regs. 1975, p. 227; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269*)

210 IAC 1-4-12 Contents of transfer report

Authority: IC 11-8-2-5; IC 11-8-2-10

Affected: IC 11-10-4

Sec. 12. The report shall include copies of:

- (a) The psychiatric evaluation;
- (b) the findings of the administrative determination;
- (c) the findings of the pre-transfer hearing, if one was held;
- (d) the waiver of personal rights, if one was signed;
- (e) a dated notification of the inmate's right to a pre-transfer hearing;
- (f) a notarized statement by the Commissioner of the Department of Correction or his designee of failure to ask for pre-transfer hearing in writing with the five-day limitation, if this is the case.

(*Department of Correction; Psychiatric Transfers Rule 12; filed Aug 23, 1974, 3:31 pm: Rules and Regs. 1975, p. 227; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269*)

210 IAC 1-4-13 Authorization for acceptance of inmates

Authority: IC 11-8-2-5; IC 11-8-2-10

Affected: IC 11-10-4

Sec. 13. After reviewing the report and/or examining the inmate, the Commissioner of the Department of Mental Health or his designee may prepare an authorization for the acceptance of the inmate by the Superintendent of a mental hospital. (*Department of Correction; Psychiatric Transfers Rule 13; filed Aug 23, 1974, 3:31 pm: Rules and Regs. 1975, p. 227; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269*)

210 IAC 1-4-14 Required institution for transfer; exceptions

Authority: IC 11-8-2-5; IC 11-8-2-10

Affected: IC 11-10-4

Sec. 14. All transfers are to be made to the Maximum Security Division at Dr. Norman M. Beatty Memorial Hospital, except that when considered necessary for treatment, the Commissioner of the Department of Mental Health or his designee may authorize transfer to a mental hospital rendering necessary treatment. (*Department of Correction; Psychiatric Transfers Rule 14; filed Aug 23, 1974, 3:31 pm: Rules and Regs. 1975, p. 228; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269*)

210 IAC 1-4-15 Immediate transfers; declaration of emergency

Authority: IC 11-8-2-5; IC 11-8-2-10

Affected: IC 11-10-4

Sec. 15. When, in the opinion of the Commissioner of the Department of Correction or his designee and the psychiatrist doing the evaluation, immediate transfer is necessary for the welfare of the inmate, the Commissioner of the Department of Correction or his designee may declare that an emergency exists. (*Department of Correction; Psychiatric Transfers Rule 15; filed Aug 23, 1974,*

3:31 pm: Rules and Regs. 1975, p. 228; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269)

210 IAC 1-4-16 Initiation of emergency transfer; temporary acceptance of inmate

Authority: IC 11-8-2-5; IC 11-8-2-10

Affected: IC 11-10-4

Sec. 16. If an emergency is declared, the Commissioner of the Department of Correction or his designee may initiate the transfer by the quickest possible means, and the Commissioner of the Department of Mental Health may accept the inmate on a temporary basis with the understanding that the Department of Mental Health will hold the pre-transfer hearing and all other necessary proceedings, if the Department of Mental Health agrees that an emergency situation exists. (*Department of Correction; Psychiatric Transfers Rule 16; filed Aug 23, 1974, 3:31 pm: Rules and Regs. 1975, p. 228; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269*)

Rule 5. Temporary Leaves for Inmates

210 IAC 1-5-1 Temporary leaves; purpose and conditions

Authority: IC 11-8-2-5; IC 11-8-2-10

Affected: IC 11-10-9-2

Sec. 1. (1) As per House Enrolled Act 1189, which became Public Law 103 [*Codified as IC 11-7-9-10.5. Repealed by P.L.120-1979, SECTION 22. See, IC 11-10-9-2 concerning temporary releases.*] on July 1, 1973, inmates incarcerated in Indiana Department of Correction Facilities may be granted temporary leave for the purposes of:

- (a) to visit a spouse, child (including a stepchild or adopted child), parent (including a stepparent or foster parent), grandparent (including stepgrandparent) or brother or sister who is seriously ill or to attend the funeral of any such person; or
- (b) to obtain medical, psychiatric or psychological services when adequate services are not otherwise available; or
- (c) to make contacts for employment; or
- (d) to secure a residence upon release on parole or discharge; or
- (e) to visit such person's family; or
- (f) to appear before various educational panels, study groups, educational units, and other groups whose purpose is obtaining an understanding of the results, causes and prevention of crime and criminality, including appearances on television and radio programs; Provided, that such appearances shall be subject to the specific approval of the warden, or the superintendent of the institution, or the work release director, all under the direction of the commissioner.

The following are the conditions under which inmates may temporarily leave a facility of the Department of Correction:

(2) Temporary leaves shall be approved by the Chief Administrative Officer of the place of confinement or such person or committee as he shall designate.

(3) Any inmate being granted leave shall be subject to security requirements of each particular institution for each inmate.

(4) In determining the eligibility for temporary leave the Chief Administrative Officer of the place of confinement of any inmate applying for such temporary leave shall consider, but not be limited to, the following:

- (a) the individual's instant crime;
- (b) criminal history involving the death or personal injury of the victim;
- (c) history of escapes from lawful confinement;
- (d) history of illegal sexual acts;
- (e) poor institutional conduct.

(5) Temporary leave may be granted only for prescribed areas within the boundaries of the State of Indiana. Any inmate shall remain within the geographical limit designated for his or her individual leave.

(6) The length of any temporary leave authorized shall be for the minimum time necessary to accomplish the specific purpose for which the leave is authorized, provided that no leave shall exceed three (3) days (Seventy-two 72 hours).

(7) Inmates shall not be eligible to receive more than two temporary leaves in any six months period except;

(a) for leaves under Rule 1a and 1b [*subsections (1)(a) and (1)(b) of this section*];

(1) "Seriously ill" as stated in Rule 1a [*subsection (1)(a) of this section*] is defined as terminal illness or critical illness

as verified by a licensed physician;

(b) inmates approved for work release assignment to make contact for employment;

(c) leaves under Rule 1c, 1d, and 1e [subsections (1)(c)–(1)(e) of this section] within 60 days of inmate's eligible release date.

(1) "Eligible Release Date" is defined as discharge date or parole release date as set by the Parole Board.

(8) Leaves under Rule 1c, 1d, and 1e [subsections (1)(c)–(1)(e) of this section] shall be granted only within 60 days of the inmate's eligible release date; provided, however, that an inmate approved for work release assignments may be granted a leave to make contacts for employment.

(9) Temporary leave to obtain medical, psychiatric or psychological services when adequate services are not otherwise available will be granted only after the institutional Medical Director, Psychologist or Consulting Psychiatrist confirms in writing that the leave is essential.

(10) After considering the special request of each individual inmate applying for temporary leave, the Chief Administrative Officer of the place of confinement may require:

(a) any inmate to be escorted by a Department of Correction employee for any part of or duration of the temporary leave;

(b) that the inmate shall comply with any extra security precaution determined by and within the discretion of said Chief Administrative Officer;

(c) any applying inmate to have an approved member of the inmate's family or other person as an escort.

(11) The Chief Administrative Officer of the place of confinement may authorize an inmate to have a temporary leave without an escort.

(12) All inmates on temporary leave are subject to all State and Federal laws.

(13) The violation of any law or any part of the policy governing temporary leave by any inmate on temporary leave shall subject that inmate to:

(a) penalties attached to any such law violation;

(b) forfeiture of the privilege for participation in the Temporary Leave Program;

(c) any further restrictions or change in classification warranted.

(14) Inmates shall accept the responsibility for returning to their place of confinement within the specified time limits of their individual leaves.

(15) The use, possession, or securing of alcoholic beverages, or any other drug or intoxicant by inmates on temporary leave is strictly forbidden except as prescribed by a licensed physician.

(16) Inmates on temporary leave shall not operate any motor vehicle.

(17) Inmates on temporary leave shall use public transportation or such transportation as is approved by the Chief Administrative Officer of the place of confinement. Such approved transportation shall be in the form of auto or truck.

(18) Should advice or assistance be needed while on temporary leave the inmate shall call his or her place of confinement or center, the local parole officer, the Department of Correction, the local sheriff or police department.

(19) Should any inmate be involved in an accident or other situations which might prevent his or her return from leave within the specific time limits, that inmate or other persons shall immediately or as soon as possible call his or her place of confinement or Center or the Department of Correction and then turn himself over to the local parole officer or sheriff.

(20) Any inmate on temporary leave shall at all times carry on his or her person identification provided by the place of confinement.

(21) Upon returning to the place of confinement from a temporary leave the inmate shall not be authorized to retain any personal property which he did not possess prior to going on the temporary leave. (*Department of Correction; Temporary Leaves Rule 1-21; filed May 22, 1974, 8:40 am; Rules and Regs. 1975, p. 229; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269*)

Rule 6. Collection, Maintenance, and Release of Offender and Juvenile Records

210 IAC 1-6-1 Definitions

Authority: IC 11-8-5-2

Affected: IC 4-1-6; IC 11-8-5-1

Sec. 1. The following definitions apply throughout this article:

(1) "Department" means the department of correction.

(2) "Juvenile" means a person who is adjudged delinquent by a juvenile court and committed to and under the legal control of the department.

(3) "Offender" means an adult committed to and under the legal control of the department for committing a criminal offense.

(4) "Official record" means the record prepared and maintained by the department for each offender and juvenile received into the physical care and custody of the department. The record shall include, but is not limited to, written, printed, or electronic materials, documents, or data pertaining to services, programs, and all other official actions performed on behalf of that offender or juvenile. These records are identified by the same offender or juvenile name as received on the commitment order, assigned a department number as an identifier, and compiled and maintained as part of an offender/juvenile packet.

(Department of Correction; Offender Records, Art I; filed Jul 30, 1979, 2:25 pm: 2 IR 1199; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269; filed Jun 17, 2003, 9:25 a.m.: 26 IR 3538)

210 IAC 1-6-2 Classification of information

Authority: IC 11-8-5-2

Affected: IC 11-8-5-2

Sec. 2. The department shall collect, maintain, and use only that offender or juvenile personal information that is relevant and necessary to accomplish the statutory purposes of the agency. All offender or juvenile information collected and retained by the department shall be classified in the following manner:

(1) Unrestricted information shall include only information pertaining to an offender that is considered by law to be public information. Certain information normally considered restricted or confidential may be considered unrestricted information if there is a compelling public interest in disclosure. Unrestricted information is accessible by any person upon specific request, with the exception of offenders to whom the information does not pertain or any juvenile.

(2) Restricted information shall include, but is not limited, to the following:

(A) Education, medical, sex offender, substance abuse, disciplinary, criminal, and employment records.

(B) Finger and voice prints.

(C) Photographs.

(D) Institutional summaries.

(E) Psychiatric and psychological reports.

(F) Social history reports.

(G) Progress reports.

(H) Educational and vocational reports.

(3) Confidential information shall include, but is not limited to, the following:

(A) Offender diagnostic/classification reports.

(B) Criminal intelligence information.

(C) Information that, if disclosed, might result in physical harm to that person or other persons.

(D) Information obtained upon promise of confidentiality.

(E) Internal investigation information.

(F) All juvenile records.

(G) Any other information required by law or promulgated rule to be maintained as confidential.

(4) All offender information obtained from other agencies, organizations, or sources shall be held to the same degree of confidentiality as that designated by the generating source.

(Department of Correction; Offender Records, Art II; filed Jul 30, 1979, 2:25 pm: 2 IR 1199; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269; filed Jun 17, 2003, 9:25 a.m.: 26 IR 3539)

210 IAC 1-6-3 Segregation and identification of information (Repealed)

Sec. 3. *(Repealed by Department of Correction; filed Jun 17, 2003, 9:25 a.m.: 26 IR 3550)*

210 IAC 1-6-4 Inspection rights of offenders and juveniles

Authority: IC 11-8-5-2

Affected: IC 4-1-6-3; IC 4-1-6-8

Sec. 4. (a) An offender or a person designated in writing by an offender as his or her agent may inspect those portions of the offender's own official record classified as unrestricted and restricted consistent with the following:

(1) The requestor shall provide a valid picture identification and a signed authorization from the appropriate offender identifying the person acting as his or her agent and specifying the documents to be released to the agent.

(2) A person committed to or under the legal control of the department or on probation to a court may not act as an offender's agent. If doubt exists as to the identity of the offender's agent or the validity of the release, the offender shall be contacted for verification when possible.

(3) The cost of copying records under this section shall be assessed to the requestor and shall be consistent with approved schedules.

(4) If the offender's signed authorization is not on file with the facility or is not presented upon making the request, the requestor shall be advised that he or she may obtain such consent from the offender or file a formal request for access to records with the department.

(5) The requestor shall be advised in the event the request is denied to direct his or her appeal to the deputy commissioner of adult operations, who shall notify the requestor of his or her decision within thirty (30) days. If the deputy commissioner disapproves the request, an appeal may be taken within thirty (30) days to the commissioner of the department who shall review the request and notify the requestor of his or her decision within thirty (30) days.

(b) Release of juvenile records shall comply with the following:

(1) A juvenile may not access his or her own records or the records of other juveniles or offenders.

(2) Juvenile records may be released to a parent or legal guardian upon specific written request unless the release of such record or records is contrary to the health, welfare, or safety of the juvenile or others.

(3) A parent or legal guardian committed to or under the legal control of the department or on probation to a court may not access a juvenile's record. If doubt exists as to the identity of the juvenile's parent or legal guardian or the validity of the request, the juvenile and his or her parent or legal guardian shall be contacted for verification.

(4) The cost of copying records under this section shall be assessed to the requestor and shall be consistent with approved schedules.

(5) In the event a request for access to records is denied, the requestor shall be advised to direct his or her appeal to the deputy commissioner of juvenile services who shall notify the requestor of his or her decision within thirty (30) days. If the deputy commissioner disapproves the request, an appeal may be taken within thirty (30) days to the commissioner of the department who shall review the request and notify the requestor of his or her decision within thirty (30) days.

(Department of Correction; Offender Records, Art IV; filed Jul 30, 1979, 2:25 pm: 2 IR 1200; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269; filed Jun 17, 2003, 9:25 a.m.: 26 IR 3539)

210 IAC 1-6-5 Challenge of information by offender; investigation; change of record

Authority: IC 11-8-5-2

Affected: IC 4-1-6-5

Sec. 5. An offender may challenge, correct, or explain information contained within his or her record in accordance with IC 4-1-6-5. *(Department of Correction; Offender Records, Art V; filed Jul 30, 1979, 2:25 pm: 2 IR 1200; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269; filed Jun 17, 2003, 9:25 a.m.: 26 IR 3540)*

210 IAC 1-6-6 Access to information

Authority: IC 11-8-5-2

Affected: IC 4-1-6-8; IC 4-1-6-8.6

Sec. 6. (a) Courts and personnel authorized by a court shall have access to offender and juvenile records consistent with the following:

(1) All court orders pertaining to offender and juvenile records shall cause such records to be copied or released by the records supervisor immediately pursuant to the terms of the court order and the following:

(A) The record repository shall reflect in a manner prescribed by the department the whereabouts of records so removed and when they were removed and the name of the employee authorizing the transfer of the record from the department to the court.

(B) No offender or juvenile record or documents contained therein shall be altered or omitted prior to or during the transmittal of the official record to the court.

(2) If access to an offender's or juvenile's record was granted under compulsory legal process other than that initiated by the offender or juvenile, reasonable effort shall be made to notify the offender or juvenile prior to release of the information.

(b) An attorney representing an offender, juvenile, or a juvenile's parent or legal guardian may have access to a client's records consistent with the following procedures:

(1) If the attorney is requesting a review and copies of the official record, then the attorney shall be charged for the cost of reproductions consistent with approved schedules.

(2) The attorney may have access to unrestricted and restricted information in the offender's record to the same extent as the offender. An attorney representing a juvenile or the parent or legal guardian of a juvenile shall have access to any information in the juvenile's official record unless release of such information is contrary to the health, welfare, or safety of the juvenile.

(3) Access by an attorney to confidential records in the offender's official record shall be accompanied by a court order specifying the documents to be released.

(c) Release to a person or agency providing a lawful service on behalf of the department, or related to or on behalf of an offender or juvenile in response to a written request, shall be limited to those documents related to the service performed and shall include confidential and restricted information consistent with this rule or as otherwise permitted by law, including the following:

(1) Upon release of such information or the providing of duplicate copies, the material shall be clearly marked as to how the information is classified.

(2) A record shall be made by the records supervisor of all such inspections noting the following:

(A) The requestor's name, agency, or function represented.

(B) The purpose of the request.

(C) The date access was granted.

(D) The name of the person granting access.

This record shall be then made a part of the offender's record.

(3) Such access shall be limited to law enforcement agencies performing a criminal investigation or agencies providing a lawful service to the department or offender or juvenile wherein the direct benefit to the offender or juvenile is clearly indicated.

(d) Unless otherwise previously specified in this rule, release of offender records shall be restricted to information classified as unrestricted unless there is a compelling public interest in releasing specific portions of the material classified restricted or confidential. Such a request shall be immediately forwarded to the division or facility head responsible for keeping these records for the final decision to release information so classified. A written notice of such a release shall be incorporated into the offender's or juvenile's record in the same manner prescribed in the prior section.

(e) All authorized department personnel or contract personnel who have an official interest in an offender's or juvenile's records as a consequence of statutory functions or department responsibilities, delegated or otherwise, shall have appropriate access to offender and juvenile records. (*Department of Correction; Offender Records, Art VI; filed Jul 30, 1979, 2:25 pm: 2 IR 1201; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269; filed Jun 17, 2003, 9:25 a.m.: 26 IR 3541*)

210 IAC 1-6-7 Research purposes; request for access to information

Authority: IC 11-8-5-2

Affected: IC 4-1-6-8.6

Sec. 7. All requests for access to offender or juvenile records for research purposes shall be made to the director of planning services in written form. Such requests shall include the name of the agency or organization performing the research, the names of the persons directly responsible for the following:

(1) Conducting such research.

- (2) The purpose of such research.
- (3) How the research is to be performed.
- (4) What measures will be taken to assure the proper protection of classified information.

Approval of such requests will then be granted or denied consistent with provisions of IC 4-1-6-8.6 and department procedures. (*Department of Correction; Offender Records, Art VII; filed Jul 30, 1979, 2:25 pm: 2 IR 1202; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269; filed Jun 17, 2003, 9:25 a.m.: 26 IR 3542*)

Rule 7. Minimum Security Assignment (Repealed)

(Repealed by Indiana Department of Correction; filed Oct 8, 1981, 10:45 am: 4 IR 2224)

Rule 8. General Visiting Guidelines for Death Row Inmates

210 IAC 1-8-1 Authorized visitors

Authority: IC 11-8-2-5; IC 35-38-6-4
Affected: IC 35-38-6-4

Sec. 1. The convicted person may receive visits from his/her:

- (1) Attorney
- (2) Physician
- (3) Relatives
- (4) Friends
- (5) Spiritual Advisor

(Department of Correction; 210 IAC 1-8-1; filed Jul 20, 1987, 10:00 am: 10 IR 2643; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269)

210 IAC 1-8-2 Visitation list

Authority: IC 11-8-2-5; IC 35-38-6-4
Affected: IC 35-38-6-4

Sec. 2. Indiana state prison and Indiana women's prison shall maintain an approved visitation list for each offender awaiting execution. The visitation list will be updated at least twice a year in a manner convenient to the operation of the institution. Offenders may request visitation from any person provided the request is consistent with all pertinent operational procedures and this rule (210 IAC 1-8). Offenders may request that members of the media be considered for visitation as "friends." All offender visits will be conducted in regular visiting areas and during regular visiting hours. Recording equipment or special equipment is permitted only at the discretion of the superintendent and must be approved prior to the visit to the facility. The visitation list shall include:

- (1) the offender's name and number;
- (2) the name of the requested visitor;
- (3) the address of the visitor;
- (4) the relationship of the visitor to the offender; and,
- (5) the age and sex of the visitor.

(Department of Correction; 210 IAC 1-8-2; filed Jul 20, 1987, 10:00 am: 10 IR 2643; errata, 11 IR 96; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269)

210 IAC 1-8-3 Operational procedures for updating and maintaining visiting list

Authority: IC 11-8-2-5; IC 35-38-6-4
Affected: IC 35-38-6-4

Sec. 3. The facility head or designee shall develop operational procedures which outline the method offenders may use to request a visitor's name be placed on or removed from the visiting list, the specific staff person responsible for updating and maintaining the visiting list, the location and/or distribution of the visiting list, and the manner in which the offender and visitor are

made aware of:

- (1) the visitation days and hours;
- (2) the visitation restrictions, including number of authorized visits;
- (3) the necessity for visitor to provide staff with adequate identification;
- (4) the visitors' dress requirement (i.e. visitors shall wear clothing that reflects the acceptable standards of society and which present no threat to the security, custody or maintenance of order at the institution).

State Form _____ "Offender Visitation List" shall be used for the purpose of listing the approved visitors for each offender. (*Department of Correction; 210 IAC 1-8-3; filed Jul 20, 1987, 10:00 am: 10 IR 2643; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269*)

210 IAC 1-8-4 Attorney visits

Authority: IC 11-8-2-5; IC 35-38-6-4
Affected: IC 35-38-6-4

Sec. 4. Visits by the convicted person's attorney may occur as necessary during normal business hours of the institution. Exceptions to the usual hours of visits will be made on the approval of the institution head or his/her designee. Provisions will be made by the institution head to insure the visit observes attorney-client confidentiality while maintaining necessary security. (*Department of Correction; 210 IAC 1-8-4; filed Jul 20, 1987, 10:00 am: 10 IR 2644; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269*)

210 IAC 1-8-5 Physician visits

Authority: IC 11-8-2-5; IC 35-38-6-4
Affected: IC 35-38-6-4

Sec. 5. Visits by the convicted person's physician will occur when necessary to the convicted person's health. (*Department of Correction; 210 IAC 1-8-5; filed Jul 20, 1987, 10:00 am: 10 IR 2644; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269*)

210 IAC 1-8-6 Immediate relative visits

Authority: IC 11-8-2-5; IC 35-38-6-4
Affected: IC 35-38-6-4

Sec. 6. Immediate relatives (parents, guardians, spouse, children, grandparents, grandchildren) are encouraged to visit with the convicted offender consistent with restrictions imposed by the visiting environment of institution and security considerations. The Indiana state prison and Indiana women's prison shall establish reasonable guidelines to encourage and facilitate visits by the immediate relatives. (*Department of Correction; 210 IAC 1-8-6; filed Jul 20, 1987, 10:00 am: 10 IR 2644; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269*)

210 IAC 1-8-7 Other visitors

Authority: IC 11-8-2-5; IC 35-38-6-4
Affected: IC 35-38-6-4

Sec. 7. (a) Visits by other relatives, by friends, and by spiritual advisors may be permitted upon the approval of the institution head or his/her designee. The frequency of these visits shall be consistent with those established for immediate relatives.

(b) Ex-offenders shall not be permitted to visit the offender without prior approval of the institution head.

(c) Parolees or probationers shall have written authorization from the parole or probation officer prior to being given consideration by the institution head. The institution head shall consider the safety and security of the individuals and the facility as well as the value to the offender when granting approval or denial of the request made by ex-offenders, parolees or probationers to visit offenders. (*Department of Correction; 210 IAC 1-8-7; filed Jul 20, 1987, 10:00 am: 10 IR 2644; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269*)

210 IAC 1-8-8 Records

Authority: IC 11-8-2-5; IC 35-38-6-4
Affected: IC 35-38-6-4

Sec. 8. Indiana state prison and Indiana women's prison shall maintain a record for every offender designating all of the offender's visits. State Form _____, "Records of Offender Visits" shall be used for this purpose. (*Department of Correction; 210 IAC 1-8-8; filed Jul 20, 1987, 10:00 am: 10 IR 2644; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269*)

210 IAC 1-8-9 Visitor inspection

Authority: IC 11-8-2-5; IC 35-38-6-4
Affected: IC 35-38-6-4

Sec. 9. Visitors shall be restricted as to what they may carry into the visiting area and shall be subject to reasonable inspection of their person and goods prior to entering the visiting area. If visitors refuse to submit to reasonable inspection of person and/or goods, the visit will not be permitted. (*Department of Correction; 210 IAC 1-8-9; filed Jul 20, 1987, 10:00 am: 10 IR 2644; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269*)

210 IAC 1-8-10 Physical contact

Authority: IC 11-8-2-5; IC 35-38-6-4
Affected: IC 35-38-6-4

Sec. 10. Physical contact (embracing and kissing) between the convicted person and his/her visitors will be permitted at the beginning and close of visits. Holding hands during the visit will be permitted. Physical contact may be restricted if required for security reasons. (*Department of Correction; 210 IAC 1-8-10; filed Jul 20, 1987, 10:00 am: 10 IR 2644; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269*)

Rule 9. Literacy Standards for Participation in Minimum Security Release Program

210 IAC 1-9-1 Definitions

Authority: IC 11-8-2-5; IC 11-10-8-3
Affected: IC 11-10-8-3

Sec. 1. The following definitions shall be applicable for the operations of literacy standards and minimum security release. Minimum Security Release Program: Work release, regulated community assignment, or special assignment to a work release center.

Reading: Includes comprehension and vocabulary.

Writing: Language mechanics.

Handicapped: An offender who, in the judgement of psychological/psychiatric or education staff is potentially learning disabled, mentally or developmentally impaired to the extent that he/she is incapable of achieving minimum literacy competency.

Intake Unit: The department facility which receives the offender for initial classification. For these purposes, the intake units are the reception diagnostic center and Indiana women's prison.

Minimum Literacy Requirement: Competency level determined by the department of correction and the Indiana adult literacy coalition in the areas of reading and writing. (*Department of Correction; 210 IAC 1-9-1; filed Feb 22, 1988, 2:00 pm: 11 IR 2335; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269*)

210 IAC 1-9-2 Literacy standard requirement

Authority: IC 11-8-2-5; IC 11-10-8-3
Affected: IC 11-10-8-3

Sec. 2. All adult offenders, unless otherwise exempt, are required to demonstrate reading and writing skills that meet minimum

literacy standards to be classified for assignment to a minimum security release program. Minimum literacy standards are determined by the department of correction with the assistance of the Indiana adult literacy coalition. The minimum literacy requirement is equivalent to sixth grade skills in reading and writing. (*Department of Correction; 210 IAC 1-9-2; filed Feb 22, 1988, 2:00 pm: 11 IR 2335; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269*)

210 IAC 1-9-3 Exceptions to literacy requirement

Authority: IC 11-8-2-5; IC 11-10-8-3

Affected: IC 11-10-8-3

Sec. 3. The literacy standard does not apply to an offender who:

- (1) is unable to meet the minimum literacy standard as a result of a handicap;
- (2) length of sentence prevents the offender from achieving minimum literacy standards before expiration of sentence;
- (3) is approved for or assigned to a minimum security release program prior to September 1, 1987;
- (4) holds a high school diploma, general equivalency diploma, or post-secondary education.

(*Department of Correction; 210 IAC 1-9-3; filed Feb 22, 1988, 2:00 pm: 11 IR 2335; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269*)

210 IAC 1-9-4 Intake unit literacy competency testing

Authority: IC 11-8-2-5; IC 11-10-8-3

Affected: IC 11-10-8-3

Sec. 4. Literacy testing shall be provided at the intake unit to determine the offender's competency level in reading and writing. If an offender declines to be tested and there is no verified documentation available regarding literacy competency, he/she shall be considered ineligible for minimum security release. An offender may retest 30 days after previous testing. (*Department of Correction; 210 IAC 1-9-4; filed Feb 22, 1988, 2:00 pm: 11 IR 2336; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269*)

210 IAC 1-9-5 Offender ineligible; notification

Authority: IC 11-8-2-5; IC 11-10-8-3

Affected: IC 11-10-8-3

Sec. 5. If the offender does not have the minimum literacy skills required, he/she shall receive written and verbal notification of such ineligibility and advised what is required to change this classification in the future. (*Department of Correction; 210 IAC 1-9-5; filed Feb 22, 1988, 2:00 pm: 11 IR 2336; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269*)

210 IAC 1-9-6 Literacy requirement; length of sentence

Authority: IC 11-8-2-5; IC 11-10-8-3

Affected: IC 11-10-8-3

Sec. 6. If department of education staff determine that an offender's length of sentence at the point of intake allows for sufficient time to complete the literacy requirement, however the offender delays entering the program until insufficient time for completion remains, or the offender chooses not to participate in the educational program; the offender will remain ineligible for minimum security release. (*Department of Correction; 210 IAC 1-9-6; filed Feb 22, 1988, 2:00 pm: 11 IR 2336; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269*)

Rule 10. Offender Tort Claim Process

210 IAC 1-10-1 Personal property tort claims

Authority: IC 34-13-3-7

Affected: IC 34-13-3

Sec. 1. (a) This rule applies only to tort claims filed by offenders either currently committed to the department and confined in a department facility or who were committed to and confined in a department facility and who have alleged a loss of personal property due to actions or omissions by the department.

(b) Only those claims where an offender is attempting to recover compensation, either monetary compensation or replacement of property, for the loss of personal property are subject to this rule. This loss must be alleged to have occurred during the offender's confinement as a result of an act or omission of the department or any of its agents, officers, employees, or contractors. For the purpose of this rule, "personal property" means any property that offenders are allowed to possess, excluding state-issued property and contraband, in accordance with the department's administrative procedures for Policy 02-01-101, "offender personal property". (*Department of Correction; 210 IAC 1-10-1; filed Jun 17, 2003, 9:25 a.m.: 26 IR 3542*)

210 IAC 1-10-2 Time limit for filing a claim

Authority: IC 34-13-3-7

Affected: IC 34-13-3

Sec. 2. An offender must file a claim pursuant to this rule no later than one hundred eighty (180) days after the date of the alleged loss. Claims filed after this time frame has elapsed shall not be considered and shall be returned to the offender. (*Department of Correction; 210 IAC 1-10-2; filed Jun 17, 2003, 9:25 a.m.: 26 IR 3542*)

210 IAC 1-10-3 Claim filing

Authority: IC 34-13-3-7

Affected: IC 34-13-3

Sec. 3. (a) In those cases where an offender alleges that the department or its agents have lost, damaged, or destroyed personal property belonging to the offender, the offender may file a claim for compensation. The offender shall complete the NOTICE OF LOSS OF PROPERTY–TORT CLAIM form. Each facility shall ensure that copies of this form are made available in the offender law library, offender housing units, or other suitable location. The offender also may obtain this form from his or her counselor.

(b) The offender will be required to complete this form by providing as much information as possible when describing the item lost and the manner in which it was lost. The offender shall attach any supporting documents or information to this form. When the form is completed, the offender shall submit the form to the facility head. The offender shall also send a copy of the claim, including all supporting documents, to the department's Tort Claim Administrator, Division of Legal Services, Indiana Government Center-South, 302 West Washington Street, E334, Indianapolis, Indiana 46204. (*Department of Correction; 210 IAC 1-10-3; filed Jun 17, 2003, 9:25 a.m.: 26 IR 3542*)

210 IAC 1-10-4 Claim investigation

Authority: IC 34-13-3-7

Affected: IC 34-13-3

Sec. 4. (a) The facility head shall designate a staff person to act as the facility's tort claims investigator. The tort claims investigator shall have access to all areas of the facility in order to investigate claims and make recommendations for settlement if applicable.

(b) The duties of the facility tort claims investigator shall include the following:

(1) Receiving the NOTICE OF LOSS OF PROPERTY–TORT CLAIM form from the facility head.

(2) Reviewing this form and any accompanying documentation.

(3) Investigating the claim made by the offender, including the following:

(A) Interviewing staff and the offender as necessary.

(B) Reviewing all pertinent documents, including personal property inventories, and commissary requests.

(C) Completing any other actions necessary to make a recommendation on the claim.

(4) Making a recommendation concerning the settlement of the claim and complete the tort claims investigator's section of the RECOMMENDATION ON TORT CLAIM form.

(5) Submitting the RECOMMENDATION ON TORT CLAIM form to the department's tort claims administrator.

(6) Maintaining files of all property loss tort claims filed by offenders at the facility.
(Department of Correction; 210 IAC 1-10-4; filed Jun 17, 2003, 9:25 a.m.: 26 IR 3543)

210 IAC 1-10-5 Claim administration

Authority: IC 34-13-3-7
Affected: IC 34-13-3

Sec. 5. (a) The commissioner of the department shall appoint a staff person within the division of legal services to act as the tort claims administrator for all claims regarding loss of property by offenders. This staff person shall report to the director of the division of legal services.

(b) The duties of the tort claims administrator shall include the following:

- (1) Receiving copies of the NOTICE OF LOSS OF PROPERTY–TORT CLAIM form submitted by offenders.
- (2) Assigning a sequential case number to each notice received.
- (3) Advising the facility tort claims investigator and the offender as to the case number assigned to the claim.
- (4) Receiving copies of the RECOMMENDATION ON TORT CLAIM form from the facility tort claims investigator.
- (5) Reviewing all documents and forms received from the offender and the facility tort claims investigator.
- (6) Requesting additional information from the facility or the offender, as necessary.
- (7) Making a recommendation to the office of the attorney general concerning settlement of the claims, including the following:
 - (A) Completing the AMENDMENT TO TORT CLAIM form in cases where the claim appears appropriate but the amount requested is not correct.
 - (B) Forwarding the AMENDMENT TO TORT CLAIM form to the facility tort claims investigator as necessary.
 - (C) Receiving the completed AMENDMENT TO TORT CLAIM form from the facility tort claims investigator.
 - (D) Completing the tort claims administrator section of the RECOMMENDATION ON TORT CLAIM form.
- (8) Submitting all documentation to the office of the attorney general.
- (9) Maintaining a file on all property loss tort claims filed in the department.
- (10) Serving as the department liaison with the office of the attorney general for property loss tort claims.

(Department of Correction; 210 IAC 1-10-5; filed Jun 17, 2003, 9:25 a.m.: 26 IR 3543)

210 IAC 1-10-6 Claim settlement

Authority: IC 34-13-3-7
Affected: IC 34-13-3

Sec. 6. (a) All checks for payment of property loss claims shall be sent to the offender at his or her housing facility.

(b) In those cases where the offender has been released from the department prior to the settlement of the claim, the tort claims administrator shall provide the attorney general with the offender's last known address. *(Department of Correction; 210 IAC 1-10-6; filed Jun 17, 2003, 9:25 a.m.: 26 IR 3543)*

ARTICLE 2. COMMUNITY BASED CORRECTIONS

Rule 1. Community Corrections Funding

210 IAC 2-1-1 Community correction plan; application for aid

Authority: IC 11-8-2-5
Affected: IC 11-12-1-1; IC 11-12-2

Sec. 1. (a) This section governs the procedures whereby counties make application for financial aid and outlines the community corrections plan.

(b) The commissioner of correction, consistent with IC 11-12-2-1, shall make grants to counties for the establishment and operation of community corrections programs. Priority for funding community corrections programs, as defined by IC 11-12-1-1,

shall be given to those programs that assist in diverting offenders from the department. Other types of programs shall also be considered for funding.

(c) Program components and services that may be considered for funding are as follows:

(1) Adult services as follows:

(A) Components that provide alternatives to incarceration include, but are not limited to, the following:

- (i) Residential programs.
- (ii) Work/study release programs.
- (iii) House arrest programs.
- (iv) Home detention programs.
- (v) Electronic monitoring programs.
- (vi) Day reporting programs.
- (vii) Jail services and jail work crew programs.
- (viii) Those programs that provide offenders the opportunity to make restitution either to the victims of crimes or symbolically to the community, for example:
 - (AA) restorative justice;
 - (BB) community service restitution; or
 - (CC) community work crew programs.

(B) Services provided for the components established in clause (A) include, but are not limited to, the following:

- (i) Employment training and placement programs.
- (ii) Educational programs.
- (iii) Mental health programs.
- (iv) Substance abuse treatment, education, and counseling programs.
- (v) Programs that offer counseling in domestic relations, daily living, and parenting skills.

(2) Juvenile services as follows:

(A) Components that divert juveniles from the juvenile justice system include, but are not limited to, the following alternatives to detention:

- (i) House arrest.
- (ii) Home detention.
- (iii) Electronic monitoring.
- (iv) Day reporting/treatment.
- (v) Restitution programs.
- (vi) Volunteer programs.
- (vii) Residential programs.

(B) Services provided for the components established in clause (A) include, but are not limited to, the following:

- (i) Employment training and placement programs.
- (ii) Educational programs.
- (iii) Mental health programs.
- (iv) Substance abuse treatment, education, and counseling programs.
- (v) Mentoring programs.
- (vi) Anger management and daily living skills.

(3) Victim services or programs include, but are not limited to, the following:

- (A) Victim notification programs.
- (B) Victim's compensation programs.
- (C) Victim/offender mediation/reconciliation programs.
- (D) Victim awareness programs.

(d) Grant applicants shall submit an application on the form prescribed by the department of correction and it shall be complete and consistent with IC 11-12-2-4. No county may receive financial aid until its application is approved by the commissioner.

(e) Any application being considered for funding must be submitted to the county commissioners or city county council for review and approval or disapproval, who will, in turn, submit the application to the commissioner of the department of correction. Any major alteration of the program concept or service delivery system during the funding period shall require the approval of the

same authorities involved in the original grant process.

(f) Applicants shall submit any additional program component description or justification for funding upon request by the department of correction.

(g) Applicants shall identify the program's total itemized operating budget and the total itemized operating budget for each program component. The itemized operating budget shall include all sources of income, including project income as defined in the Community Corrections Grant Act Procedural Manual.

(h) Applicants for community corrections funds shall be prepared to show at the time of application that they are in compliance with IC 11-12-2-2 in the development of a community corrections advisory board and that such board is operational.

(i) The community corrections plan shall include the following:

(1) Current expenditures for local corrections.

(2) Estimated use of probation, both at the adult and juvenile level.

(3) The number of executed commitments to the department of correction within the past fiscal year.

(4) Impact relationship between this project and current correctional needs in the jurisdiction.

(5) Continuum of sanctions for adults and continuum of services for juveniles within the local jurisdiction.

(6) Definitions that are consistent with the definitions found in the glossary of the Community Corrections Grant Act Procedural Manual.

(j) The community corrections plan shall accompany the application unless otherwise indicated by the department.

(k) The application for funds shall show how long the program is to be sustained. Applicants should be prepared to show how the program is to be sustained in the event funds are not appropriated by the Indiana legislature in the future.

(l) In evaluating community corrections grant applications, the department of correction will take into consideration the following factors:

(1) The impact on existing local criminal and juvenile justice programs.

(2) The value of the program as it relates to a reduction of commitments to the department of correction.

(3) Funds currently apportioned to that community for correctional programs.

(4) The county's past experience with components of a like or similar nature.

(m) Consistent with IC 11-12-2-8, the department of correction will not award money to a county to supplant spending for currently funded correctional programs, nor to construct or renovate county jails.

(n) Counties requesting funding under the Community Corrections Grant Act shall ensure that requests for reimbursement or expenses, or both, including, but not limited to:

(1) mileage;

(2) per diem expenses;

(3) subsistence costs;

(4) out-of-state travel;

(5) employee wage increases; and

(6) training and registration costs;

do not exceed rates and written policies approved for other local county employees.

(o) Any county that has questions concerning the approval or disapproval of any part of its grant application or the amount of money awarded to the county may request that the commissioner of the department of correction reconsider their application or award. A request for reconsideration must be in writing and received by the commissioner within fifteen (15) days after a county has been informed of its approved grant award and advised to submit an amended application. (*Department of Correction; 210 IAC 2-1-1; filed Mar 27, 1981, 9:05 a.m.: 4 IR 775; filed Jan 20, 1987, 9:00 a.m.: 10 IR 1217; filed May 26, 2000, 8:59 a.m.: 23 IR 2410; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269*)

210 IAC 2-1-2 Establishing, operating, and evaluating correctional programs

Authority: IC 11-8-2-5

Affected: IC 11-12-2-3; IC 11-12-2-6; IC 31-6-4-18; IC 35-38-2-1; IC 35-38-2.5-6

Sec. 2. (a) This section governs the minimum standards for establishing, operating, and evaluating correctional programs funded under IC 11-12-2.

(b) Programs involving domiciliary care shall be established and operated in accordance with the following:

DEPARTMENT OF CORRECTION

(1) Standards promulgated by the Indiana state department of health, the state fire marshal, and the fire prevention and building safety commission.

(2) Other applicable standards and statutes.

Such programs shall be subject to inspection in the same manner as all other facilities and programs supported by public funds.

(c) Programs involving residential care shall be governed by applicable licensing, inspection, and other supervisory requirements imposed by law.

(d) Programs of referral shall be required to meet all state and federal licensing requirements.

(e) Educational and vocational type service programs shall meet standards set forth by the department of education.

(f) Court supervision programs, including any form of specialized probation services, shall meet standards prescribed by the probation standards and practices committee as promulgated by the judicial conference.

(g) Program components that assess user fees under IC 31-6-4-18 [*IC 31-6 was repealed by P.L.1-1997, SECTION 157, effective July 1, 1997.*], IC 35-38-2-1, or IC 35-38-2.5-6, or collect any other user fee from a participant in a community correction program component shall provide to the department of correction, for approval, a written fee schedule, approved by the local advisory board, for each program component. The fee schedule shall specify how the fees are determined, including the rationale for determining the minimum and maximum amounts assessed for each program and the policy for serving the indigent population.

(h) In accordance with IC 11-12-2-3(a)(3), a written annual report will be required of all community corrections programs funded under IC 11-12-2 and will contain an evaluation of the effectiveness of the program, recommendations for improvement, modification, or discontinuance of the program, or any other data agreed upon in the original grant. The aforementioned reports will be submitted according to a schedule established by the department of correction.

(i) Programs receiving community corrections grant funds will be required to submit reports as required by the department of correction outlining the program activities and a monthly financial report detailing the month's expenditures and other reports as required by the department of correction.

(j) All program activity reports and monthly financial reports will be submitted in a format prescribed by the policies and procedures of the department of correction.

(k) All program activity reports and monthly financial reports will be submitted to the commissioner or designee by the fifteenth day following the end of the reporting period.

(l) Failure to meet any or all of the approved rules shall constitute noncompliance and may lead to temporary or permanent termination of funding consistent with IC 11-12-2-6.

(m) Any program receiving state funding under IC 11-12 is subject to inspection by the commissioner of the department of correction or the commissioner's designee. (*Department of Correction; 210 IAC 2-1-2; filed Mar 27, 1981, 9:05 a.m.: 4 IR 776; filed Jan 20, 1987, 9:00 a.m.: 10 IR 1219; filed May 26, 2000, 8:59 a.m.: 23 IR 2412; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269*)

210 IAC 2-1-3 Fund distribution

Authority: IC 11-8-2-5

Affected: IC 11-12-2-1

Sec. 3. The following formula will be utilized as a guideline in the distribution of community corrections funds under IC 11-12-2-1:

(1) All qualified applicant counties will be scored in accordance with a formula consisting of the following three (3) factors:

(A) Total county population, according to the most recent federal census, or, in the intervening years between the taking of the federal census, determination will be made according to the most recently published projection of the Indiana state department of health.

(B) Total county population ten (10) years of age through thirty-four (34) years of age according to the most recent federal census, or, in the intervening years between the taking of the federal census, determination will be made according to the most recent projection of the Indiana state department of health.

(C) The third factor is to be calculated as follows:

(i) Determine the net value of taxable property as same appears for the most recent tax year in the most recent annual report of the auditor of state.

(ii) Divide the amount determined in item (i) by the total population of the individual county to obtain a per capita

of net taxables.

(iii) Add the results obtained in item (ii) and reduce same to a percentage of the total for each county.

(iv) The result will then be the percentage for the third factor.

(2) Each qualified applicant county is then scored as follows:

(A) The applicant county's total population is divided by the total population of all qualified applicant counties. The percentage thus obtained is to be carried to the third decimal.

(B) The applicant county's population ten (10) years of age through thirty-four (34) years of age is divided by the total population ten (10) years of age through thirty-four (34) years of age for all qualified applicant counties. The percentage thus obtained is to be carried to the third decimal.

(3) The percentage given each county in each of the foregoing factors will be added to the percentage obtained by the computation of the third factor and will be divided by three (3).

(4) The percentage thus obtained shall then be applied to the funds available to establish a base upon which a county's eligibility may be considered.

(5) In those cases in which a county is eligible under the formula for more funds than are required to fund the county's approved community corrections programs, only the amount needed to fund the programs will be distributed.

(6) If, after applying the formula, all available funds have not been allocated, the amount remaining may be reallocated among the other qualified applicant counties with approved programs but whose requests exceeded their amount of eligible funding.

The formula will be applied to these counties in the same manner as the initial application of the formula.

(Department of Correction; 210 IAC 2-1-3; filed Mar 27, 1981, 9:05 a.m.: 4 IR 776; filed Jan 20, 1987, 9:00 a.m.: 10 IR 1220; filed May 26, 2000, 8:59 a.m.: 23 IR 2412; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269)

210 IAC 2-1-4 Fund disbursement

Authority: IC 11-8-2-5

Affected: IC 11-12-2

Sec. 4. (a) This section governs the disbursement of community corrections funds.

(b) The department of correction, after having determined the amount of grant funds available to a county, shall cause the amount, less charges to the county under IC 11-12-2-9, to be encumbered against appropriations available for the purpose of implementing IC 11-12-2-1.

(c) The county shall make claim for available funds monthly, in arrears, on forms prescribed by the department of correction and approved by the state board of accounts. The claims shall be for not more than one-twelfth ($1/12$) of the grant available, less charges made under IC 11-12-2-9 and advancements made under IC 11-12-2-5.

(d) The claims shall be certified to the department of correction by the county auditor.

(e) The claims shall be made payable to the county auditor and shall be quietused into a separate fund known as the "Community Corrections Fund".

(f) Funds shall be disbursed from the Community Corrections Fund for purposes of implementing the county community corrections plan as otherwise provided by law.

(g) In the event that two (2) or more counties join in implementing the Community Corrections Grant Act, as provided by IC 11-12-2-2(c), funds shall be paid to the county designated to act as fiscal agent for the joint venture. *(Department of Correction; 210 IAC 2-1-4; filed Mar 27, 1981, 9:05 a.m.: 4 IR 777; filed Jan 20, 1987, 9:00 a.m.: 10 IR 1221; filed May 26, 2000, 8:59 a.m.: 23 IR 2413; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269)*

ARTICLE 3. COUNTY JAIL STANDARDS

Rule 1. Maintenance of County Jails

210 IAC 3-1-1 Definitions

Authority: IC 11-8-2-5; IC 11-12-4-1

Affected: IC 11-12-4-1

DEPARTMENT OF CORRECTION

Sec. 1. Definitions. "Administrative Segregation" shall mean the physical separation of inmates who are determined to be mentally ill, escape prone, assaultive or violent, or likely to need protection from other inmates where such administrative segregation is determined to be necessary in order to achieve the objective of protecting the welfare of prisoners and staff.

"Chronic Care" shall mean medical service rendered to an inmate over a long period of time, i.e., treatment of diabetes, asthma or epilepsy.

"Contraband" shall mean property the possession [*sic.*] of which is in violation of an Indiana or federal statute.

"Convalescent Care" shall mean medical service rendered to an inmate to assist in the recovery from illness or injury.

"Disciplinary Segregation" shall mean that status assigned an inmate, as a consequence or means of control resulting from a violation of jail rules, which consists of confinement in a cell, room, or other housing unit separate from inmates who are not on disciplinary segregation status.

"Emergency Care" shall mean care for an acute illness or unexpected health care need that cannot be deferred until the next scheduled sick call or physician's visit.

"Inmate" shall mean any person detained or confined in any jail governed by these rules [210 IAC 3].

"Jail" shall mean a secure county detention facility used to confine prisoners prior to appearance in court and sentenced prisoners.

"Jail Administrator", unless expressly stated otherwise, shall mean sheriff or other individual who has been assigned, designated or delegated full-time responsibility and authority for the administration and operation of the jail by the sheriff.

"Jail Officer" shall mean a sheriff's employee whose primary duties are the daily or ongoing supervision of jail inmates.

"Medical Preventive Maintenance" shall mean those health services including health education, medical services, and instruction in self-care for chronic conditions.

"Policy" shall mean a statement declaring mission, purpose and ideological position.

"Procedure" shall mean a statement establishing the action plan to accomplish policy.

"Prohibited Property" shall mean property other than contraband that the Jail Administrator does not permit an inmate to possess.

"Physician" shall mean an individual holding a license to practice medicine in Indiana, issued by the Medical Licensing Board of Indiana.

"Qualified Medical Personnel" shall mean individuals engaged in the delivery of a medical or health care service who have been licensed, certified, or otherwise properly qualified under the laws of Indiana applicable to that particular service.

"Unusual Occurrence" shall mean any significant incident or disruption of normal jail procedures, policies, routines or activities such as fire, riot, natural disaster, suicide, escape, assault, medical emergency, hostage taking, or other violation of jail rules or state laws. (*Department of Correction; 210 IAC 3-1-1; filed Jul 27, 1981, 10:30 am: 4 IR 1808; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269*)

210 IAC 3-1-2 Administration and organization

Authority: IC 11-8-2-5; IC 11-12-4-1

Affected: IC 11-12-4-1

Sec. 2. Administration and Organization. (a) Each jail shall be managed by a single Jail Administrator to whom all employees or units of management are responsible.

(b) Each Jail Administrator shall prepare annually a written report setting forth the extent and availability of services and programs to inmates. Said report shall be directed to the Circuit Court Judge and copies shall be provided to the State Jail Inspector, President of the County Council or City-County Council, and President of the County Commissioners.

(c) Each Sheriff shall develop a manual of policies and procedures which shall guide the operation of his county's jail. All policies and procedures must be in writing. The Sheriff shall encourage the participation of other community agencies in the development of policy for the jail through coordinated planning and inter-agency consultation. The advice and consultation of the Sheriff's staff should also be sought in the development of policies and procedures for each jail. The manual shall be reviewed and updated annually and distributed to all employees. It shall include, but not be limited to:

- (1) A statement of the philosophy, goals, and purposes of the jail;
- (2) Operations and maintenance of the jail;
- (3) Organizational structure of the jail, its staff and program, with grouping of similar functions, services and activities into

administrative sub-units;

(4) Delineation of channels of communication;

(5) A procedure for the monitoring of operations and programs through required inspections and reviews;

(6) A system of written reports to be directed to the sheriff or jail administrator including as a minimum: Information on major development, serious incidents, population data, staff and inmate morale, major problems and proposed plans to resolve them;

(7) Staff training;

(8) Employee-management relations; and

(9) Staff-inmate communication.

(Department of Correction; 210 IAC 3-1-2; filed Jul 27, 1981, 10:30 am: 4 IR 1809; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269)

210 IAC 3-1-3 Fiscal management

Authority: IC 11-8-2-5; IC 11-12-4-1

Affected: IC 11-12-4-1

Sec. 3. Fiscal Management. (a) Each sheriff shall establish written procedures to govern the internal handling of monies. All such procedures shall be consistent with all requirements of the State Board of Accounts.

(b) Each sheriff shall maintain fiscal records which will clearly indicate the annual costs for his county's jail. Any such records shall reflect all monies collected and disbursed during any budget period and shall be established in compliance with all requirements of the State Board of Accounts.

(c) Each sheriff shall prepare and present annually a budget request to the appropriate government funding body. The jail budget request should accurately reflect the needs and objectives of the subject facility.

(d) Each sheriff shall maintain a written inventory of county jail property. The inventory shall be reviewed and updated annually. *(Department of Correction; 210 IAC 3-1-3; filed Jul 27, 1981, 10:30 am: 4 IR 1809; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269)*

210 IAC 3-1-4 Personnel

Authority: IC 11-8-2-5; IC 11-12-4-1

Affected: IC 11-12-4-1

Sec. 4. Personnel. (a) Each sheriff shall establish written jail personnel policies and procedures. *(Department of Correction; 210 IAC 3-1-4; filed Jul 27, 1981, 10:30 am: 4 IR 1810; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269)*

210 IAC 3-1-5 Training and staff development

Authority: IC 11-8-2-5; IC 11-12-4-1

Affected: IC 11-12-4-1

Sec. 5. Training and Staff Development. (a) Each sheriff shall establish a written training and staff development plan for all jail employees. This plan shall be based on the jail's manual of policies and procedures. It shall be evaluated and revised as needed annually.

(b) Each new jail officer shall receive forty (40) hours of orientation and training at the jail prior to job assignment and shall receive an additional forty (40) hours certified training during the first year of employment. Each jail officer shall receive documented training each year thereafter. The forty (40) hours of certified training during the first year of employment shall be received through the Indiana Law Enforcement Training Board.

(c) All personnel authorized to use firearms shall be trained in weaponry on a continuing in-service and documented firearms training course. Failure to qualify for continued firearm use shall be deemed just cause for administrative re-evaluation or dismissal.

(1) No employee shall be authorized by the sheriff to use firearms unless that employee has been given training in the legal requirements of firearm use and the legal aspects of the use of deadly force.

(2) Detailed training records are required and shall be maintained on all firearms training.

(d) Each sheriff shall include training as a budget item in his jail's annual budget request to pay for this required training.

(Department of Correction; 210 IAC 3-1-5; filed Jul 27, 1981, 10:30 am: 4 IR 1810; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269)

210 IAC 3-1-6 Management information systems; inmate records

Authority: IC 11-8-2-5; IC 11-12-4-1

Affected: IC 11-12-4-1

Sec. 6. Management Information Systems and Inmate Records. (a) An intake form shall be completed for every inmate admitted to any county jail. Such form shall contain, but not limited to, the following information, unless otherwise prohibited by statute:

- (1) Booking number;
- (2) Date and time of intake;
- (3) Name and aliases;
- (4) Last known address;
- (5) Date and time of commitment and authority therefor;
- (6) Name, title and signature of delivering officer;
- (7) Specific charge(s);
- (8) Physical description;
- (9) Mug shot and fingerprints;
- (10) Sex;
- (11) Age and date of birth;
- (12) Place of birth;
- (13) Race;
- (14) Occupation;
- (15) Last place of employment;
- (16) Health status;
- (17) Name and relationship of next of kin;
- (18) Address of next of kin;
- (19) Court and sentence;
- (20) Notation of cash and personal property; and
- (21) Space for remarks (to include notation of any open wounds, of sores requiring treatment, evidence of disease or body vermin, or tatoos).

(b) Records shall be maintained on all inmates committed or assigned to any county jail. Such records shall contain, but are not limited to;

- (1) Intake information;
 - (2) Commitment papers and court order(s);
 - (3) Cash and personal property receipts;
 - (4) Reports of disciplinary actions or unusual occurrences;
 - (5) Work record;
 - (6) Program involvement; and
 - (7) Medical orders issued by the jail physician or his designee.
- (c) Each sheriff shall maintain on a daily basis written data concerning population movement, including but not limited to:
- (1) Admission;
 - (2) Processing; and
 - (3) Release of pre-trial detainees and sentenced inmates.

(d) Each sheriff shall establish a written procedure requiring the prompt reporting of all incidents that result in physical harm, threaten the safety of any person in the jail, or threaten the security of the jail.

(e) Each sheriff shall establish written policies and procedures regarding access to and release of inmate records. Such policies and procedures shall insure that inmate records are current, accurate and safeguarded from unauthorized and improper disclosure.

(f) An inmate's medical record file shall not be in any way part of the confinement record. *(Department of Correction; 210*

IAC 3-1-6; filed Jul 27, 1981, 10:30 am: 4 IR 1810; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269)

210 IAC 3-1-7 Physical plant

Authority: IC 11-8-2-5; IC 11-12-4-1

Affected: IC 11-12-4-1

Sec. 7. Physical Plant. (a) All inmate living and activity areas in each jail shall provide for the following minimum requirements:

(1) Illumination shall be sufficient for reading and writing throughout the living area; readings of at least 20 foot candles are required at desk level.

(2) Circulation of fresh air sufficient to remove stale air and odors from the living area. This requirement shall be satisfied if the County Board of Health certifies that the air in the living area is not harmful to the inmates.

(3) A heating system sufficient to insure healthful and comfortable living and working conditions for all inmates and staff. Temperatures shall be maintained at a comfortable level consistent with exterior conditions, clothing and bedding issued.

(4) Each cell shall have direct access to a toilet, a washbasin with running water and a bunk.

(5) There shall be at least one toilet and one shower per twelve inmates in the activity area. This requirement shall be satisfied as to toilet access if cells are accessible to the inmates at all time.

(b) The reception area shall be located inside the security perimeter but outside inmate living quarters. It shall have the following minimum components:

(1) Weapon lockers, located outside the security area;

(2) Temporary holding space which has sufficient seating capacity for all inmates assigned, audio and visual communication, and available toilets and washbasins with running water;

(3) Booking area;

(4) Medical examination area;

(5) Shower facilities;

(6) Vault or secure area for storage of inmate's personal property; and

(7) Telephone facilities.

(c) To provide security and assure compliance with fire safety regulations, supply areas shall be separate from inmate living and activity areas. There shall be adequate space for storage and security of keys, weapons, medications, tools, evidence, recovered stolen property, bedding, housekeeping equipment and supplies, clothing, prisoner's property, commissary and hygiene items, and records.

(d) Arsenals shall be located outside the security perimeter of the inmate living and activity areas. Provisions shall be made for the secure storage, care and issuance of weapons and related security equipment. The arsenal shall be equipped with an alarm system.

(e) Each jail shall have at least one area suitable for inmates who must be under special medical supervision.

(f) Each jail shall have a space available for the supervision of offenders who represent special behavioral problems including intoxication and self-destructive behavior. This area shall be equipped with audio-video communication and have access to toilet and running water.

(g) There shall be one bed for each inmate and the capacity of a jail shall be determined with the sheriff taking into consideration the following factors: (a) A bed for each inmate; (b) The size of the cell or sleeping area; (c) The size of the day room or range to which the prisoner has free access during non-sleeping hours; (d) Time spent in activities out-of-cell and/or time spent out of range.

The State Jail Inspector may adjust the rated capacity of any jail in the event that change in the structure or the use of that facility indicate that such change would be appropriate. Prior to any adjustment in rated capacity, the State Jail Inspector shall review the proposed adjustment with the sheriff and the County Commissioners.

(h) All major jail construction beginning January 1, 1982 shall comply with jail construction standards established by the American Correctional Association.

(i) Each sheriff shall have a written plan for preventive maintenance. The plan shall be reviewed and updated annually. *(Department of Correction; 210 IAC 3-1-7; filed Jul 27, 1981, 10:30 am: 4 IR 1811; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269)*

210 IAC 3-1-8 Commissary operations

Authority: IC 11-8-2-5; IC 11-12-4-1
Affected: IC 11-12-4-1

Sec. 8. Commissary. (a) Each jail commissary shall be managed and operated in a manner consistent with Indiana law. (*Department of Correction; 210 IAC 3-1-8; filed Jul 27, 1981, 10:30 am: 4 IR 1811; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269*)

210 IAC 3-1-9 Safety and sanitation

Authority: IC 11-8-2-5; IC 11-12-4-1
Affected: IC 11-12-4-1

Sec. 9. Safety and Sanitation. (a) Each jail shall be maintained in a safe and sanitary condition, in compliance with state and local health, sanitation, safety, and fire laws.

(b) Inmates incarcerated in each jail shall have the responsibility for maintaining their own cells and living areas in a safe and sanitary condition. Jail officials shall make cleaning equipment, including mops, brooms, scouring cleanser, soap and disinfectant, available to inmates on a daily basis to assist inmates in meeting their cleaning responsibility.

(c) Each jail shall be inspected by a designated jail official at least once per week. Each living area shall be inspected by designated jail officials daily. Written inspection reports shall be maintained, and steps shall be taken promptly to remedy unsafe or unsanitary conditions.

(d) Each jail shall be inspected weekly for evidence of insects and rodents. Licensed extermination services shall be obtained to spray or treat facilities as often as necessary to eliminate insects and rodents. Inmates shall be removed from an area if spraying or fogging is necessary and cannot properly be accomplished if inmates are present.

(e) Plumbing fixtures shall be promptly repaired or replaced as may be necessary after receipt and confirmation of a report of malfunctioning equipment.

(f) Exits shall be clearly marked, continuously illuminated, kept clear and in usable [*sic.*] condition.

(g) The sheriff shall establish a written evacuation plan for use in the event of fire or major emergency. Appropriate evacuation instructions shall be posted in all living and working areas of each jail.

(h) The Sheriff shall request that the local Board of Health inspect the jail at least semi-annually.

(i) The Sheriff shall establish written policies and procedures concerning safety, sanitation, and control of supplies. (*Department of Correction; 210 IAC 3-1-9; filed Jul 27, 1981, 10:30 am: 4 IR 1811; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269*)

210 IAC 3-1-10 Clothing and personal hygiene

Authority: IC 11-8-2-5; IC 11-12-4-1
Affected: IC 11-12-4-1

Sec. 10. Clothing and Personal Hygiene. (a) Each jail shall provide for the issue of suitable clothing, bedding and towels to each new inmate. Clean clothing, bedding and towels shall be issued at least weekly. These items shall be maintained in sufficient number to supply each jail's inmate population.

(b) Each inmate shall be provided with shaving materials, bar soap, toothbrush, and toothpaste. Industrial hand soap shall not be issued to inmates. Women inmates shall be provided with choice of tampons or sanitary napkins.

(c) Inmates shall shower upon admission to the jail's general population and shall be afforded the opportunity to shower at least three times per week thereafter unless an emergency or a threat to jail security exists.

(d) Each inmate shall be allowed, upon request, to have his/her hair cut at least once every six weeks.

(e) All inmates shall be provided the opportunity to wear their personal clothing when they appear in court for trial.

(f) The Sheriff may supervise and control the hygiene, grooming, and attire of jail inmates to the extent reasonably necessary to maintain a sanitary, safe and secure environment. (*Department of Correction; 210 IAC 3-1-10; filed Jul 27, 1981, 10:30 am: 4 IR 1812; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269*)

210 IAC 3-1-11 Medical care and health services

Authority: IC 11-8-2-5; IC 11-12-4-1

Affected: IC 11-12-4-1

Sec. 11. Medical Care and Health Services. (a) A duly licensed physician shall be responsible for medical services in each jail.

(b) Procedures necessary to deliver medical services to inmates shall be in writing and shall be approved by the responsible physician.

(c) State licensing and/or certification requirements and restrictions shall apply to all health care personnel working with jail inmates. Copies of all licensing and/or certification credentials shall be on file with the sheriff. Jail security regulations shall apply to all medical personnel.

(d) Whenever medical services are to be delivered routinely in any jail, adequate space, equipment, supplies and materials as determined by the responsible physician shall be provided.

(e) First-aid kits shall be available in each jail. The responsible physician shall approve the contents, number and location of such kits and the procedure for periodic inspection of all first-aid kits.

(f) Each inmate shall be medically screened upon admission to jail and before placement in the general population or living area. Screening data must be recorded on a form approved by the responsible physician and shall include, but not be limited to:

- (1) Current illnesses and health problems, including those specific to women;
- (2) History of drug and/or alcohol use;
- (3) Medications taken;
- (4) Special health requirements;
- (5) Screening of other health problems designated by the responsible physician;
- (6) Behavioral observations, including state of consciousness and mental status.
- (7) Notation of body deformities, trauma markings, bruises, lesions, jaundice and ease of movement;
- (8) Condition of skin and body orifices, including rashes and infestation; and
- (9) Disposition/referral of inmate to qualified medical personnel on an emergency basis.

(g) Within fourteen (14) days following arrival at the jail, an inmate shall be given the opportunity to receive a medical examination conducted by the responsible physician or his designees.

(h) Inmate medical complaints shall be collected daily and responded to by medically trained personnel. Qualified medical personnel shall follow up all complaints and allocate treatment according to priority of need. A physician shall be available at least once a week to evaluate and respond to inmate medical complaints.

(i) Each jail shall provide 24-hour emergency medical and dental care availability pursuant to a written plan which includes as a minimum arrangements for:

- (1) Emergency evacuation of the inmate from within the facility;
- (2) Use of an emergency medical vehicle;
- (3) Use of one or more designated hospital emergency rooms or other appropriate health facilities;
- (4) Emergency on-call physicians and dentist services when the emergency health facility is not located in a nearby community; and
- (5) Security procedures that provide for the immediate transfer of inmates when appropriate.

(j) Jail personnel shall be trained in the use of emergency care procedures and shall have current training in basic first-aid equipment. At least one person per shift shall have training in receiving screening, cardio pulmonary resuscitation (CPR) and recognition of symptoms [*sic.*] of the illnesses most common to the facility. All jail officers shall be trained regarding recognition of symptoms of mental illness and retardation.

(1) No jail shall accept delivery of an unconscious or critically injured person.

(2) All injured inmates shall be examined immediately, by a competent medical person. A description of the injury should be recorded and photographs taken when appropriate.

(k) Jail officials shall use their best efforts to obtain any medication prescribed by a physician. All medications shall be administered in the dosage and with the frequency prescribed. No substitutions of medications shall be made without the prescribing physician's approval.

(1) Any jail officer who administers medication shall have received training from the responsible physician and the jail

administrator, is accountable for administering medications according to orders, and must record the administration of medication in a manner and on a form approved by the responsible physician.

(2) A structured system for pharmacy storage and distribution shall be established in accordance with recognized medical standards as determined by the responsible physician.

(l) Each jail shall be listed with the Drug Enforcement Administration as a place of practice by the responsible physician.

(m) Each sheriff shall establish policies and procedures for the development and disposition of each inmate's medical records and shall provide secure and confidential storage of such records consistent with physician-patient privileges. (*Department of Correction; 210 IAC 3-1-11; filed Jul 27, 1981, 10:30 am: 4 IR 1812; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269*)

210 IAC 3-1-12 Diet and food preparation; written procedures

Authority: IC 11-8-2-5; IC 11-12-4-1

Affected: IC 11-12-4-1

Sec. 12. Diet and Food Preparation. (a) Each sheriff shall establish written policies and procedures concerning the quantity and quality of food served to inmates.

(b) Food shall not be used as a reward or withheld as a disciplinary measure. All meals shall be served under the supervision of the jail administrator or his designee. There shall be no more than fourteen (14) hours between the evening meal and breakfast. Inmates shall be served three (3) meals each day. One meal each day shall be served hot.

(c) Menus shall be prepared in advance and records of all menus and all meals served shall be retained. Menus shall meet the approval of a qualified dietician, and food preparation and the storage shall be in compliance with local and state health standards. Each menu shall include the recommended dietary allowance for food nutrients specified by the National Academy of Science, Food and Nutrition Board. All food service areas and equipment shall be inspected daily by administrative jail personnel. All food must be placed on racks off the floor. Food must be covered while being transported to the inmate area.

(d) To insure that the jail kitchen is maintained in a safe and sanitary condition, the following requirements shall be met:

(1) All kitchen equipment and floors shall be cleaned daily. Walls and vents shall be cleaned regularly.

(2) The sheriff or jail administrator shall request that the local health officer, or an otherwise qualified agency, conduct periodic inspections of the kitchen facilities to insure compliance with established health and sanitary standards.

(3) Eating utensils shall be sanitized. Alternatively, plastic disposal utensils may be used for each meal.

(4) Kitchen equipment must be operational and safe for use.

(5) Inmates working in the kitchen shall be given a pre-service examination and periodic examinations thereafter to insure that they do not have any contagious diseases or other ailments which could facilitate food contamination. Inmates shall wear clothing approved for food handling when they are assigned to the kitchen.

(e) Medical diets approved by the responsible physician shall be honored. Religious diets shall be honored to the extent that the required food is readily accessible in the community where the jail is located. Any refusal to grant a medical or religious diet shall be reported in writing to the sheriff or jail administrator.

(f) Each sheriff shall establish in writing a control system to monitor and control food pilferage, misuse or spoilage. (*Department of Correction; 210 IAC 3-1-12; filed Jul 27, 1981, 10:30 am: 4 IR 1813; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269*)

210 IAC 3-1-13 Security and control; written procedures

Authority: IC 11-8-2-5; IC 11-12-4-1

Affected: IC 11-12-4-1

Sec. 13. Security and Control. (a) Each sheriff shall establish a manual setting forth the jail's policies and procedures for security and control. This manual shall be distributed to all jail personnel and shall be reviewed annually and updated as needed. The manual shall include, but not be limited to:

(1) Supervision;

(2) Searches and seizures;

(3) Facility security;

(4) Shakedowns;

- (5) Firearms and other weapons;
- (6) Maintenance of security equipment;
- (7) Key control;
- (8) Tool control;
- (9) Records control;
- (10) Population count;
- (11) Chemical agents;
- (12) Post orders;
- (13) Escapes;
- (14) Emergency situations, including fire, disturbance, assault, taking hostages, natural disasters;
- (15) Transportation of inmates; and
- (16) Use of physical force.

Jail officers shall be trained consistent with provisions of the security and control manual. Pre and post training examinations shall be administered to each jail officer, and the results made part of the employee's record.

(b) Inmates shall not be permitted to handle, use, or have jail keys of any type in their possession. There shall be at least one full set of keys, separate from those in use, stored in a safe place accessible only to jail personnel, for use in event of an emergency. Keys are to be color coded and classified pursuant to a key numbering and lettering system.

(c) The use of physical force by jail personnel shall be restricted to instances of justifiable self-protection, protection of others, protection of property, and prevention of escapes. Force shall be used only to the degree necessary and consistent with any statutory [*sic.*] limitations. Written reports following any use of force shall be promptly submitted to the sheriff or his designee.

(1) Only weapons approved by the sheriff shall be used by jail personnel in emergency situations. Any jail employee who discharges a firearm in the course of his duty shall promptly submit a written report to the sheriff.

(2) Weapons shall not be permitted beyond a designated area to which inmates have no access, except in emergency situations.

(3) Persons designated to authorize the use of tear gas, mace, or other chemical agents shall be named in writing and shall be trained in the proper employment of the chemical agents.

(4) Each sheriff shall establish procedures for the treatment of persons injured as a result of a weapon or chemical agent.

(d) Each jail shall maintain a secure communication control center separate from other jail detention and administrative functions. Jail officers and other personnel assigned to jail duty shall be trained in security measures and handling of special incidents such as assaults, disturbances, fires and natural disasters. Each jail shall have an audio communication system between the communication control center and the inmate living area.

(e) Each jail shall have equipment necessary to maintain central lights, power and communication in an emergency. Emergency equipment shall be tested at least weekly for effectiveness and shall be repaired or replaced as necessary.

(f) Security equipment shall be sufficient to meet facility needs and shall be stored in a secure, readily accessible area.

(g) All security perimeter entrances, control center doors, cell block doors, and cell doors opening into a corridor shall be kept locked except when used for admission or exit of employees, inmates or visitors, and emergencies. No jail officer shall enter a high security cell area without back-up assistance.

(h) Jail officials may perform searches and seize contraband or prohibited property. Jail officials may inform an inmate of the items of property he is permitted to possess, in which event all other property not contraband is prohibited property. Property that an inmate is otherwise permitted to possess may become prohibited property due to the means by which it is possessed or used. The sheriff or jail administrator shall establish written procedure providing for a written record concerning the seizure of contraband or prohibited property, receipts for property seized, and appropriate disposition of seized property.

(1) Notice in writing shall be given inmates and visitors as to the items not considered contraband or prohibited property.

(2) Visitors and inmates may be searched at jails where contact visiting is permitted.

(3) Body cavity searches may be conducted only by medical personnel of the same sex as the person being searched. Visitors must be given clear notice of the possibility of body cavity searches and may decline their request to visit upon receiving this notice. The grounds on which body cavity searches may be conducted shall be clearly stated.

(4) Inmates permitted to leave the jail temporarily, for any reason, shall be thoroughly searched prior to leaving and before re-entering the jail. Searches and seizures shall be conducted so as to avoid unnecessary force, embarrassment, or indignity to inmates.

(5) The sheriff shall establish written policies and procedures concerning contraband, prohibited property, searches and

seizures of property.

(Department of Correction; 210 IAC 3-1-13; filed Jul 27, 1981, 10:30 am: 4 IR 1814; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269)

210 IAC 3-1-14 Inmate supervision

Authority: IC 11-8-2-5; IC 11-12-4-1

Affected: IC 11-12-4-1

Sec. 14. Supervision of Inmates. (a) There shall be sufficient jail personnel present in the jail to provide adequate twenty-four hour supervision of inmates.

(1) A jail officer shall provide personal observation not including observation by a monitoring device, of each inmate at least once every sixty (60) minutes between the hours of 8:00 p.m. and 7:00 a.m. Such observation may be conducted on an irregular schedule but shall be documented.

(2) High risk, suicidal inmates shall be provided appropriate supervision consistent with that behavior.

(b) The sheriff shall establish written procedure for the supervision of female inmates by male staff and the supervision of male inmates by female staff. These procedures shall take into consideration the privacy rights and needs of inmates.

(c) The sheriff shall establish written procedures for the segregation of inmates with serious behavioral problems, inmates requiring protective custody, or inmates charged with disciplinary misconduct.

(1) An inmate charged with disciplinary misconduct may be confined or separated from the general population of the jail for a reasonable period of time if his continued presence in the general population poses a serious threat to himself, others, property or the security of the jail. Jail officials shall review the status of that inmate at least once every seven (7) days to determine if the reason for segregation still exists. Time spent confined or separated from the general population before a determination of guilt must be credited toward any period of disciplinary segregation imposed.

(2) No inmate shall be kept in disciplinary segregation for a period in excess of thirty (30) days for any single instance of disciplined conduct without administrative review.

(3) Jail officials shall maintain a permanent written record of activity in disciplinary and administrative segregation areas.

(d) Each area of the jail shall be visited by the Sheriff or his designee at least once weekly and daily by supervisory staff. All inspections shall be documented.

(e) Inmates shall not be authorized to supervise or exert control or assume any authority over other inmates. *(Department of Correction; 210 IAC 3-1-14; filed Jul 27, 1981, 10:30 am: 4 IR 1815; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269)*

210 IAC 3-1-15 Inmate rights

Authority: IC 11-8-2-5; IC 11-12-4-1

Affected: IC 11-12-4-1

Sec. 15. Inmate Rights. (a) The right of jail inmates to have access to the courts shall be insured. Inmates shall have confidential access to their attorneys and the authorized representatives of their attorneys. Jail inmates not represented by counsel shall have reasonable access to an adequate law library.

(b) Inmates shall not be subject to discrimination based on race, national origin, color, creed, sex, economic status, or political belief. There shall be equal access to programs or services for male and female inmates.

(c) Inmates shall have the right of access to reading material except pornography as defined by Indiana law or reading matter which jail officials have reasonable grounds to believe poses an immediate danger to the safety of an individual or a serious threat to the security of the jail.

(d) An inmate is entitled to believe in the religion of his choice, and attendance at religious services is not required. To the greatest extent possible consistent with jail security, programs and resources, an inmate is entitled to:

(1) Observe the religious days of worship or holidays of his religion;

(2) Possess and wear religious artifacts;

(3) Receive and possess religious literature; and

(4) Communicate, correspond with and be visited by a clergyman or religious counselor of his choice.

(e) An inmate shall be given a reasonable opportunity for physical exercise and recreation outside of his immediate living

quarters and out of doors where feasible, consistent with the security and resources of the jail.

(f) Each sheriff shall make arrangements with election officials to facilitate an inmate's right to vote by absentee ballot provided that the inmate is otherwise qualified to vote.

(g) Each jail shall maintain a written inmate work assignment plan providing for inmate employment, subject to the number of available work opportunities and the maintenance of facility security. Unsentenced inmates shall not be required to work except as may be necessary to maintain their living quarters in a safe and sanitary condition.

(h) All inmates shall have the right to file written grievances regarding treatment of conditions in the jail with the sheriff or his designee. Grievances shall be promptly investigated, and a written report stating the disposition of the grievance shall be provided the inmate. The sheriff shall establish in writing a grievance procedure which shall be made known and distributed to all inmates upon arrival and initial screening.

(i) Inmates may receive visitors at reasonable times. Jail officials may, however, for the purposes of maintaining jail security, individual safety, and administrative manageability, place reasonable restrictions on visitation.

(1) Each sheriff shall establish written procedures providing for inmate telephone access; general visitation; special visitation; visitation for high security risk inmates; and visitor registration, including search procedures.

(Department of Correction; 210 IAC 3-1-15; filed Jul 27, 1981, 10:30 am: 4 IR 1816; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269)

210 IAC 3-1-16 Mail; written procedures

Authority: IC 11-8-2-5; IC 11-12-4-1

Affected: IC 11-12-4-1

Sec. 16. Mail. (a) Each sheriff shall establish a written procedure consistent with Indiana law governing inmate mail correspondence.

(b) An inmate may send and receive an unlimited amount of correspondence to or from any person outside the jail in any language. The sheriff may restrict correspondence between inmates within the jail or with inmates of any other jail or penal institution.

(c) Correspondence to or from government officials, courts, attorneys, or representatives of the public news media may not be opened, read, censored, copied or otherwise interfered with in regard to its prompt delivery or transmission. However, if jail officials have reasonable grounds to believe that a piece of correspondence may contain contraband or prohibited property, said correspondence may be opened by jail officials in the presence of the addressee for the purpose of examining the contents for contraband or prohibited property. Upon completion of the inspection, the item of correspondence must be promptly delivered or transmitted without reading, censoring, copying or further interfering with its delivery or transmission.

(d) Correspondence from a person not enumerated in paragraph (c) of this section may be opened to inspect for and remove contraband or prohibited property and to permit removal of funds for crediting the addressee's account. Such correspondence may not be read, censored, copied or otherwise interfered with unless jail officials have reasonable grounds to believe that it poses an immediate danger to the safety of an individual or a serious threat to the security of the jail. The addressee must be informed in writing of the amount of any funds removed.

(e) Correspondence to a person not enumerated in paragraph (c) of this section may be sealed by the inmate. However, if jail officials have reasonable grounds to believe that such correspondence may contain contraband or prohibited property or poses an immediate danger to the safety of an individual or serious threat to the security of the jail, it may be opened for inspection and removal of the contraband or the prohibited property, when appropriate, or reading and appropriate action.

(f) Whenever jail officials delay, censor, copy or withhold correspondence, the addressee shall be given prompt notice in writing. Jail officials shall maintain a record of each decision to withhold, copy, censor, delay or otherwise interfere with the prompt transmission of correspondence.

(g) Jail officials may open all incoming and outgoing packages to inspect for and remove funds, contraband or prohibited property. If contraband or prohibited property is removed from a package, the inmate must be notified in writing of such removal.

(h) Jail officials may inspect all printed matter and exclude any material that is contraband or prohibited property. Printed matter may not be excluded on the grounds it is obscene or pornographic unless it is obscene under Indiana law. A periodical may be excluded only on an issue by issue basis. Jail officials who withhold printed matter must promptly notify the addressee in writing.

(i) Indigent inmates shall be furnished with free writing supplies and postage sufficient for at least two letters per week.

(Department of Correction; 210 IAC 3-1-16; filed Jul 27, 1981, 10:30 am; 4 IR 1816; readopted filed Nov 15, 2001, 10:42 a.m.; 25 IR 1269)

210 IAC 3-1-17 Discipline; written rules

Authority: IC 11-8-2-5; IC 11-12-4-1

Affected: IC 35-50-6-4; IC 35-50-6-5

Sec. 17. Discipline. (a) Each sheriff shall establish written rules of inmate conduct for the maintenance of order and discipline among inmates. Such rules shall describe the conduct for which disciplinary action may be imposed, the type of disciplinary action that may be taken, and the disciplinary procedure to be followed. Copies of these rules shall be distributed to all inmates. The disciplinary action imposed shall be proportionate to the seriousness of the rule violation. The use of physical force as a means of discipline is prohibited.

(b) All jail personnel who have regular inmate contact shall be provided training sufficient to make them thoroughly familiar with the rules of inmate conduct and the sanctions available.

(c) Any of the following may be imposed as disciplinary action on jail inmates:

- (1) A report, which may be made part of the inmate's record;
- (2) Extra work;
- (3) Loss or limitation of privileges;
- (4) Change in work assignment;
- (5) Restitution;
- (6) Transfer to the Department of Correction for safe-keeping;
- (7) Segregation from the general population for a fixed period of time;
- (8) Reassignment to a lower credit time class under IC 35-50-6-4;
- (9) Deprivation of earned credit time under IC 35-50-6-5.

(d) The following shall not be imposed as disciplinary action on jail inmates:

- (1) Corporal punishment;
- (2) Confinement without an opportunity for at least one-half hour of daily exercise outside of immediate living quarters, unless jail officials find and document that this opportunity will jeopardize the physical safety of the inmate, others, or the security of the jail;
- (3) A substantial change in heating, lighting or ventilation;
- (4) Restrictions on clothing, bedding, mail, visitation, reading, and writing materials or the use of hygienic facilities, except for abuse of these;
- (5) Restrictions on medical and dental care, access to courts, legal counsel, government officials or grievance proceedings, and access to personal legal papers and legal research materials;
- (6) A deviation from the diet provided to other inmates, unless approved by the responsible physician;
- (7) Extra work exceeding a total of twenty (20) hours for one (1) rule violation, or exceeding four (4) hours in any twenty-four (24) hour period.

(e) Before imposing any disciplinary action, jail officials shall afford the inmate charged with misconduct a hearing to determine his guilt or innocence and the disposition of the charge. The charged inmate may waive his right to a hearing in writing. Also, before a charge is made, the inmate and a jail official may agree to a disciplinary action in the forms of extra work or loss or limitation of privileges if no record of the conduct or disciplinary action is placed in the inmate's file. In connection with the required hearing, the inmate is entitled to:

- (1) Have not less than twenty-four (24) hours advance written notice of the date, time and place of the hearing, and of the alleged misconduct, and the rule the misconduct is alleged to have violated;
- (2) Have reasonable time to prepare for the hearing;
- (3) Have an impartial decisionmaker;
- (4) Appear and speak in his own behalf;
- (5) Call witnesses and present evidence;
- (6) Confront and cross-examine witnesses, unless the decisionmaker finds that to do so would subject a witness to a substantial risk of harm;

- (7) Have advice and representation by a lay advocate in those hearings based upon a charge of institutional misconduct when the decisionmaker determines he lacks the competency to understand the issues involved or to participate in the hearing.
- (8) Have a written statement of the findings of fact, the evidence relied upon, and the reasons for the action taken;
- (9) Have immunity if his testimony or any evidence derived from his testimony is used in any criminal proceedings;
- (10) Have his record expunged of any reference to the charge if he is found not guilty or if a finding of guilt is later overturned.

Any finding of guilt must be supported by a preponderance of the evidence presented at the hearing. An inmate shall receive written notice of any charge against him within twenty-four (24) hours of knowledge or discovery of the alleged offense by jail officials, excepting weekends and holidays. The notice shall specify the date, time and place of the hearing; the alleged misconduct; the rule the misconduct is alleged to have violated; the right to a hearing and explanation of the hearing process. The hearing shall be held within seventy-two (72) hours of the alleged violation unless the inmate requests additional time to prepare for the hearing.

(g) The sheriff may delegate authority in writing to one or more designees to conduct hearings for alleged violations of facility rules.

(h) An inmate may appeal the disciplinary decision of a hearing authority to the sheriff. The appeal may challenge the finding of guilt or the type and degree of disciplinary action taken. Any appeal shall be initiated within ten (10) days of the disciplinary decision. The sheriff may reduce but not increase any disciplinary action imposed by the hearing authority. (*Department of Correction; 210 IAC 3-1-17; filed Jul 27, 1981, 10:30 am: 4 IR 1817; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269*)

210 IAC 3-1-18 Inmate classification

Authority: IC 11-8-2-5; IC 11-12-4-1

Affected: IC 11-12-4-1

Sec. 18. (a) Each sheriff shall establish a written plan for the following:

- (1) Classifying and assigning inmates according to sex.
- (2) The seriousness of their alleged crimes.
- (3) The degree of risk of violence to other inmates.
- (4) Their status as either youth or adults and pretrial detainees or convicted persons.

When the jail is at or near capacity, the sheriff shall use the best effort to maintain proper classification and segregation.

(b) Juveniles alleged to be delinquent or adjudicated delinquent shall be held only in accordance with IC 31-6-1-21.3 [*IC 31-6 was repealed by P.L.1-1997, SECTION 157, eff July 1, 1997.*] and IC 31-6-4-6.5(b)(1) [*IC 31-6 was repealed by P.L.1-1997, SECTION 157, eff July 1, 1997.*].

(c) Inmates with contagious or communicable diseases shall be segregated from other inmates. Intoxicated inmates and those inmates experiencing delirium tremens or drug withdrawal shall also be segregated and given close observation. Allegedly insane or incompetent inmates who are held in custody during examination of their mental condition or while awaiting commitment to a mental institution shall be segregated and given close observation.

(d) Inmates shall not be segregated by race, color, creed, or national origin in living area assignments. (*Department of Correction; 210 IAC 3-1-18; filed Jul 27, 1981, 10:30 a.m.: 4 IR 1818; filed Jan 31, 1996, 4:00 p.m.: 19 IR 1312; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269*)

210 IAC 3-1-19 Written procedures governing new inmate admissions

Authority: IC 11-8-2-5; IC 11-12-4-1

Affected: IC 11-12-4-1

Sec. 19. Reception, Orientation, Property Control and Release. (a) Each sheriff shall establish written procedures governing the reception and orientation of newly admitted inmates. Such procedures shall include, but not be limited to:

- (1) Verification of commitment papers;
- (2) Complete search of the individual;
- (3) Disposition of clothing and personal property;
- (4) Medical screening, including tests for infectious diseases;
- (5) Telephone calls;

- (6) Showers and hair care if necessary;
- (7) Issue of jail clothing and supplies;
- (8) Photographing and fingerprinting, including notation of identifying marks or unusual characteristics;
- (9) Interview for obtaining identifying data;
- (10) Classification for assignment to the living area;
- (11) Assignment to the living area.

(b) Each sheriff shall establish written procedures providing for a written, itemized inventory of all personal property of newly admitted inmates; the secure storage of such property, including money and other valuables; and the return of each inmate's personal property upon release, as well as the procedures governing release of inmates. (*Department of Correction; 210 IAC 3-1-19; filed Jul 27, 1981, 10:30 am: 4 IR 1818; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269*)

ARTICLE 4. JUVENILE DETENTION FACILITIES (REPEALED)

(*Repealed by Department of Correction; filed Jan 31, 1996, 4:00 p.m.: 19 IR 1316*)

ARTICLE 5. RELEASE AUTHORITY FOR JUVENILES

Rule 1. Release Procedure

210 IAC 5-1-1 Definitions; administrative procedures

Authority: IC 11-13-6-2

Affected: IC 11-8-2-5; IC 11-13-6

Sec. 1. (a) The following definitions and administrative procedures shall be applicable in the operation of the releasing authority for juveniles:

- (1) "Administrative review committee" shall make all decisions relating to the release of juveniles to community supervision.
- (2) "Chairperson" means the chairperson of the administrative review committee or the community supervision revocation committee.
- (3) "Commissioner" means the chief executive of the department.
- (4) "Commitment" means an order of a juvenile court placing a juvenile in the care, custody, and wardship of the department.
- (5) "Community supervision" means the conditional release of a juvenile before the time of a mandatory and unconditional discharge from a commitment.
- (6) "Community supervision revocation committee" shall conduct all community supervision revocation hearings.
- (7) "Community supervision revocation hearing" means a formal hearing afforded by the department to determine if a violation of the conditions of community supervision has occurred.
- (8) "Community supervision violation" means noncompliance with a condition of community supervision by the juvenile.
- (9) "Community supervision violator" means a juvenile who has violated a condition of community supervision.
- (10) "Department" means the department of correction.
- (11) "Director, juvenile transition program" means the person responsible for the day-to-day casework monitoring of all juveniles in the community, approving all special conditions of the community supervision release agreement, and the commissioner's designee to release all juveniles from contract facilities.
- (12) "Discharge" means an unconditional release of a juvenile from a commitment.
- (13) "Field staff" means department employees who supervise juveniles in the community.
- (14) "Hearing officer" means the administrative officer who conducts a preliminary hearing.
- (15) "Juvenile" means a delinquent child, which is a person who is adjudged delinquent by a juvenile court and committed to the department of correction. This definition shall be deemed to include status juveniles.
- (16) "Placement" means the place of residence of the juvenile upon release.
- (17) "Preliminary hearing" means a hearing to determine whether probable cause exists to believe that a violation of a community supervision condition has occurred.
- (18) "Review" means a hearing granted by the administrative review committee for a juvenile who has not met institutional criteria for release recommendation.

(b) The requirements for the administrative review committee shall be as follows:

(1) The administrative review committee shall be comprised of four (4) members. The chairperson shall be the facility superintendent or designee and the other three (3) members shall be from the education department, treatment department, and custody department as designated by the commissioner.

(2) All decisions of the administrative review committee shall be unanimous.

(3) The administrative review committee shall meet in accordance with a schedule approved by the chairperson.

(Department of Correction; 210 IAC 5-1-1; filed Apr 17, 1985, 9:45 am: 8 IR 1125; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269; filed Jun 17, 2003, 9:25 a.m.: 26 IR 3544)

210 IAC 5-1-2 Release recommendation by the facility; committee criteria for granting release

Authority: IC 11-13-6-2

Affected: IC 11-8-2-5; IC 11-8-5; IC 11-13-6

Sec. 2. (a) Criteria for community supervision shall be based on the following:

(1) The committing offense.

(2) Facility adjustment.

(3) Achievement of treatment goals established according to the juvenile's individual risk and needs.

The treatment staff shall review the juvenile's progress at regular intervals. Upon completion of facility requirements as approved by the facility head, the juvenile shall be recommended for community supervision consideration to the facility administrative review committee.

(b) Requirements for discharge from commitment shall be as follows:

(1) Determinate sentence juveniles shall be discharged by the administrative review committee in accordance with the commitment order.

(2) Juveniles who are at least eighteen (18) years of age may be considered for community supervision or discharge by the administrative review committee.

(c) The commissioner, pursuant to authority vested in him or her under IC 11-8-2-5(b)(2), may designate the authority to release or discharge juveniles from commitment. When a release from commitment is by discharge, the commissioner, or his or her designee, shall certify the discharge to the clerk of the committing court.

(d) The commissioner shall designate a person or persons to:

(1) release juveniles from a contract facility via community supervision or discharge; and

(2) discharge all juveniles from community supervision.

(Department of Correction; 210 IAC 5-1-2; filed Apr 17, 1985, 9:45 am: 8 IR 1125; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269; filed Jun 17, 2003, 9:25 a.m.: 26 IR 3545)

210 IAC 5-1-3 Community supervision or discharge; consideration, reviews, denials, conditions statement

Authority: IC 11-13-6-2

Affected: IC 11-8-2-5; IC 11-8-5; IC 11-13-6

Sec. 3. (a) The administrative review committee shall review the treatment team's recommendations regarding the juvenile's progress in treatment and interview the juvenile to determine release to community supervision or discharge, whichever is appropriate. A juvenile who has not received a facility recommendation for community supervision shall be reviewed by the administrative review committee at least every twelve (12) months.

(b) A juvenile under consideration for community supervision or discharge shall be afforded the following:

(1) At least seven (7) days' (excluding Saturday, Sunday, or holidays) advance written notice that he or she is being considered for community supervision or discharge.

(2) Access to records and reports to be considered by the committee making the release determination in accordance with IC 11-8-5.

(3) An opportunity to appear before the committee, speak in his or her own behalf, and present documentary evidence.

(c) In all cases where community supervision is denied, the chairperson shall give the juvenile written notice of the denial and the reason or reasons for the denial including the following:

DEPARTMENT OF CORRECTION

(1) No juvenile may be denied community supervision solely on the basis that appropriate placement is not available in the community to which he or she will return.

(2) The committee shall provide written notice to the juvenile that he or she has the right to appeal the administrative review committee decision.

(d) When a juvenile is released to community supervision, he or she shall be given a written statement of the community supervision conditions imposed by the department. Signed copies of this statement shall be forwarded to any person charged with his or her supervision and retained by the department including the following:

(1) The conditions shall be signed by the chairperson of the administrative review committee or the director of the juvenile transition program.

(2) The administrative review committee shall explain the conditions of community supervision to the juvenile, the juvenile shall acknowledge receipt of the conditions by his or her signature, and the juvenile's signature shall be witnessed.

(3) The community supervision conditions for juveniles released from juvenile facilities shall be as follows:

(A) I will report to my supervising field staff by telephone within twenty-four (24) hours of arrival at my approved residence unless I have received other written instructions.

(B) I understand it is my responsibility to maintain contact with my field staff by making myself available through home visits, office visits, school visits, work visits, telephone contacts, and written reports as directed. I understand that my field staff has the authority to search or inspect my person or personal property without a search warrant at any time.

(C) I will obey all federal, state, and local laws.

(D) I understand that I must immediately notify my field staff any time I am arrested, ticketed, or contacted by any law enforcement agent.

(E) I agree not to use or possess alcohol or any controlled substance. I agree not to remain at any place where alcohol or controlled substances are present and being illegally consumed.

(F) I understand that I may not, at any time, possess a firearm, loaded or unloaded, knife, weapon, or any other device, equipment, chemical substance, or other material that could be used to cause harm or serious bodily injury to another person.

(G) I agree not to associate with persons adjudicated or convicted of a criminal offense including any person currently on parole or probation unless authorized by my field staff.

(H) I understand that I must obtain written permission from my field staff to purchase a motorized vehicle (automobile, truck, motorcycle, or moped) or obtain an identification card, beginner's driving permit, or driver's license.

(I) I will be at my approved residence during curfew hours and during the hours designated by my parent or guardian and field staff unless I have obtained permission in advance to be at another location.

(J) I understand that I must obtain written permission from my field staff before leaving Indiana for any reason, for example, day visit, holiday visit, family illness, funeral, or vacation. Verbal permission from field staff shall be obtained for travel within Indiana.

(K) I agree to:

(i) participate in an approved educational or vocational school program; or

(ii) be gainfully employed when work is available or participate in an approved community service program.

(L) I understand that I must notify my field staff if I am unable to fulfill my obligations for employment, community service project assignment, or educational or vocational school program.

(M) I understand that "Placement Failure", the need for emergency medical, psychiatric, or psychological evaluation, or any life-threatening situation may be cause for a temporary return to a facility.

(N) I will comply with all orders and special conditions imposed by the department. Additional terms and conditions of community supervision may be added at any time during the community supervision period upon recommendation of the field staff and approval of the director of the juvenile transition program.

(4) The administrative review committee may impose special conditions to community supervision. The juvenile shall be given notice of and a copy of these conditions. A copy of these conditions shall be placed in the official record of the applicable juvenile.

(5) The commissioner's designee shall be authorized to impose special conditions on juveniles upon the request of the field staff supervising that juvenile. The juvenile shall be given notice of and a copy of these conditions. A copy of these conditions shall be placed in the official record of the applicable juvenile.

(6) The administrative review committee shall inform the juvenile that he or she has the right to appeal the decision of the administrative review committee to the commissioner's designee in writing within seven (7) calendar days.

(Department of Correction; 210 IAC 5-1-3; filed Apr 17, 1985, 9:45 am.: 8 IR 1126; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269; filed Jun 17, 2003, 9:25 a.m.: 26 IR 3545)

210 IAC 5-1-4 Community supervision revocation

Authority: IC 11-13-6-2

Affected: IC 11-8-2-5; IC 11-13-6; IC 33-40-1-2

Sec. 4. (a) Procedure for conducting preliminary hearings are *[sic., is]* as follows:

(1) Field staff shall submit a written report of the alleged community supervision violation or violations to the commissioner's designee when there is reasonable belief to believe the juvenile has violated a condition of community supervision.

(2) The commissioner's designee shall review the report of alleged violation or violations and determine whether or not a warrant should be issued. If a warrant is issued, a hearing officer shall conduct a preliminary hearing. The commissioner, by the authority vested in him or her under IC 11-8-2-5(b), may delegate his or her authority to issue warrants.

(3) The hearing officer shall be impartial and have no involvement in the reporting or investigation of the alleged violation or violations.

(4) The hearing officer shall provide the juvenile and his or her parents, guardians, or custodians written notice of the following:

(A) The date, time, and place of the hearing.

(B) The community supervision condition or conditions alleged to have been violated.

(C) The procedures and rights applicable to that hearing.

(D) If probable cause is found to exist, his or her right to a revocation hearing and the procedures and rights applicable to that hearing.

(E) The possible sanctions if a violation is found.

(5) In connection with the preliminary hearing, the juvenile is entitled to the following:

(A) Appear and speak in his or her own behalf.

(B) Call witnesses and present documentary evidence.

(C) Confront and cross-examine witnesses unless the hearing officer finds that to do so would subject the witness to a substantial risk of harm.

(D) A written statement of the findings of fact and the evidence relied upon.

(6) The juvenile's parents, guardians, or custodians are entitled to be present at the hearing.

(7) If the hearing officer determines that probable cause does not exist to believe the juvenile violated a condition of community supervision, the charge shall be dismissed.

(8) If the hearing officer determines from the evidence presented that there is probable cause to believe that the juvenile violated a condition of community supervision, but the hearing officer does not believe that there is sufficient reason for return to the facility, the hearing officer may continue the juvenile on community supervision pending the community supervision revocation hearing. Any special condition imposed by the hearing officer as a result of continued placement on community supervision shall be discussed with, and approved by, the commissioner's designee, prior to its imposition.

(9) If the hearing officer determines from the evidence presented that there is probable cause to believe that the juvenile violated a condition of his or her community supervision and the juvenile should be confined pending a revocation hearing, the juvenile shall be arrested on the department's warrant and returned to a juvenile facility pending a community supervision revocation hearing.

(10) In a case where the alleged violation of community supervision is based on a criminal conviction or a delinquency adjudication, the preliminary hearing need not be held.

(11) Unless good cause for the delay is established in the record of the preliminary hearing, the community supervision violation charge shall be dismissed if the preliminary hearing is not held within ten (10) days after the date of arrest on the department's warrant.

(b) Procedures for conducting community supervision revocation hearings are as follows:

(1) The community supervision revocation hearing shall be presided over by the commissioner's designee and two (2)

members designated by the facility superintendent. The commissioner's designee shall serve as chairperson. The committee shall meet in accordance with a schedule established by the chairperson.

(2) A juvenile confined at a juvenile facility due to an alleged community supervision violation shall be afforded a community supervision revocation hearing by the community supervision violation committee within sixty (60) days of his or her arrest on the department's warrant.

(3) An alleged community supervision violator who is not confined prior to the community supervision revocation hearing shall be afforded a hearing within one hundred eighty (180) days after the order was issued for his or her appearance at the community supervision revocation hearing or the date of his or her arrest on the community supervision violation warrant, whichever is earlier.

(4) Unless good cause for delay is established in the record of the revocation hearing, the revocation charge shall be dismissed if the revocation hearing is not held within the time limits established in subdivisions (2) and (3).

(5) Within seventy-two (72) hours of a juvenile's return to a juvenile facility (excluding Saturday, Sunday, or holidays) as an alleged community supervision violator, the facility shall notify the juvenile that he or she has the right to be represented by counsel at a revocation hearing and, if indigent, to have counsel appointed for him or her, including the following:

(A) The juvenile shall sign a statement indicating his or her understanding of the right to counsel and whether he or she desires to have counsel represent him or her at the revocation hearing.

(B) If the juvenile desires to be represented by counsel, but cannot afford such representation, the housing facility shall notify the public defender's office that the alleged community supervision violator desires counsel at the revocation hearing.

(6) The housing facility shall provide the juvenile and his or her parents, guardian, or custodian written notice of the revocation hearing at least seven (7) days in advance of the hearing. The written notice shall include the following:

(A) The date, time, and place of the hearing.

(B) The community supervision condition or conditions alleged to have been violated.

(C) The procedures and rights applicable to such hearing.

(D) The possible sanctions if a violation is found.

(7) The juvenile shall be afforded those safeguards enumerated in subsection (a)(5) and may offer evidence in mitigation of the alleged violation.

(8) The juvenile's parents, guardians, or custodians are entitled to be present at the revocation hearing and shall be so advised by the housing facility.

(9) If it is determined from the evidence presented that the juvenile did not commit a violation of community supervision, the charge or charges shall be dismissed.

(10) If the committee finds that the juvenile did violate a condition or conditions of community supervision, it may continue the juvenile on community supervision, with or without modifying the conditions, or revoke the community supervision and order the juvenile confined, including the following:

(A) If the juvenile is continued on community supervision with modified conditions, he or she shall be given written notification of the modification or modifications.

(B) If community supervision is revoked, the committee shall inform the juvenile that he or she will be reconsidered for community supervision on a specific date or that he or she will be reconsidered when he or she again completes the facility criteria for release.

(11) The chairperson shall provide the community supervision violator with a written statement of the reasons for the committee's action if community supervision is revoked. The juvenile has the right to appeal the decision of the community supervision revocation committee.

(12) The community supervision revocation committee shall consider the following:

(A) The alleged violator's overall community adjustment including, but not limited to, the following:

(i) School or work.

(ii) Completion of community supervision goals.

(iii) Previous violations committed while on community supervision.

(B) The alleged community supervision violator's past juvenile history and the nature of his or her committing offense.

(C) The nature of the violation committed by the alleged community supervision violator and the events and circumstances surrounding the violation.

(13) The community supervision revocation committee shall inform the juvenile that he or she has the right to appeal the decision of the community supervision revocation committee to the commissioner's designee in writing within seven (7) calendar days.

(Department of Correction; 210 IAC 5-1-4; filed Apr 17, 1985, 9:45 am: 8 IR 1127; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269; filed Jun 17, 2003, 9:25 a.m.: 26 IR 3548)

ARTICLE 6. JUVENILE DETENTION FACILITIES

Rule 1. Applicability

210 IAC 6-1-1 Applicability

Authority: IC 11-8-2-5; IC 31-31-8-2

Affected: IC 11-8-2; IC 31-31-8

Sec. 1. (a) This article applies to all newly constructed, remodeled, converted, and existing juvenile detention facilities.

(b) This article does not apply to secure facilities or other facilities licensed by the family and social services administration.

(Department of Correction; 210 IAC 6-1-1; filed Jan 31, 1996, 4:00 p.m.: 19 IR 1312; filed Nov 25, 2002, 9:30 a.m.: 26 IR 1064)

Rule 2. Definitions

210 IAC 6-2-1 General applicability

Authority: IC 11-8-2-5

Affected: IC 11-8-2

Sec. 1. The definitions in this rule apply throughout this article. *(Department of Correction; 210 IAC 6-2-1; filed Jan 31, 1996, 4:00 p.m.: 19 IR 1312; readopted filed Oct 22, 2002, 1:53 p.m.: 26 IR 882)*

210 IAC 6-2-2 "ACA" defined

Authority: IC 11-8-2-5

Affected: IC 11-8-2

Sec. 2. "ACA" means the American Correctional Association. *(Department of Correction; 210 IAC 6-2-2; filed Jan 31, 1996, 4:00 p.m.: 19 IR 1312; readopted filed Oct 22, 2002, 1:53 p.m.: 26 IR 882)*

210 IAC 6-2-3 "Department" defined

Authority: IC 11-8-2-5; IC 31-31-8-2

Affected: IC 11-8-2; IC 31-31-8

Sec. 3. "Department" means the department of correction. *(Department of Correction; 210 IAC 6-2-3; filed Jan 31, 1996, 4:00 p.m.: 19 IR 1312; filed Nov 25, 2002, 9:30 a.m.: 26 IR 1064)*

210 IAC 6-2-4 "Dispositional program" defined

Authority: IC 11-8-2-5; IC 31-31-8-2; IC 31-37-19-1

Affected: IC 11-8-2; IC 31-31-8; IC 31-37-19

Sec. 4. "Dispositional program" means activities and services provided for juveniles who are placed in a juvenile detention facility as a disposition of a juvenile court. *(Department of Correction; 210 IAC 6-2-4; filed Jan 31, 1996, 4:00 p.m.: 19 IR 1312; filed Nov 25, 2002, 9:30 a.m.: 26 IR 1064)*

210 IAC 6-2-5 “Existing facility” defined

Authority: IC 11-8-2-5; IC 31-31-8-2
Affected: IC 11-8-2; IC 31-31-8

Sec. 5. “Existing facility” means any juvenile detention facility in use prior to March 1, 1996. (*Department of Correction; 210 IAC 6-2-5; filed Jan 31, 1996, 4:00 p.m.: 19 IR 1312; filed Nov 25, 2002, 9:30 a.m.: 26 IR 1064*)

210 IAC 6-2-6 “Full compliance” defined

Authority: IC 11-8-2-5
Affected: IC 11-8-2

Sec. 6. “Full compliance” means that a detention facility is found by the department to conform to all mandatory standards and a minimum of ninety percent (90%) of recommended standards. (*Department of Correction; 210 IAC 6-2-6; filed Jan 31, 1996, 4:00 p.m.: 19 IR 1312; readopted filed Oct 22, 2002, 1:53 p.m.: 26 IR 882*)

210 IAC 6-2-7 “Inspection” defined

Authority: IC 11-8-2-5
Affected: IC 11-8-2

Sec. 7. “Inspection” means an on-site viewing and assessment of existing conditions, policies, and procedures and their relationship to minimum standards. (*Department of Correction; 210 IAC 6-2-7; filed Jan 31, 1996, 4:00 p.m.: 19 IR 1312; readopted filed Oct 22, 2002, 1:53 p.m.: 26 IR 882*)

210 IAC 6-2-8 “Juvenile detention facility” defined

Authority: IC 11-8-2-5
Affected: IC 11-8-2

Sec. 8. “Juvenile detention facility” means any public or privately operated, secure center, place, institution, or part thereof, that is used for the lawful custody and treatment of adjudicated delinquents and juveniles alleged to be delinquent. (*Department of Correction; 210 IAC 6-2-8; filed Jan 31, 1996, 4:00 p.m.: 19 IR 1313; readopted filed Oct 22, 2002, 1:53 p.m.: 26 IR 882*)

210 IAC 6-2-9 “Mandatory standard” defined

Authority: IC 11-8-2-5
Affected: IC 11-8-2

Sec. 9. “Mandatory standard” means:

- (1) a standard which has been determined to be essential to ensure the life, health, and safety of juveniles and personnel; and
- (2) with which a juvenile detention facility must conform to achieve compliance.

With the exception of ACA standard 4C-23 and subject to modifications noted in 210 IAC 6-3, standards considered as mandatory by ACA are mandatory under this article. (*Department of Correction; 210 IAC 6-2-9; filed Jan 31, 1996, 4:00 p.m.: 19 IR 1313; errata filed Mar 8, 1996, 2:00 p.m.: 19 IR 2044; readopted filed Oct 22, 2002, 1:53 p.m.: 26 IR 882*)

210 IAC 6-2-10 “Provisional compliance” defined

Authority: IC 11-8-2-5
Affected: IC 11-8-2

Sec. 10. “Provisional compliance” means that a detention facility conforms to all mandatory standards and the minimum percentage of recommended standards required in the specified time frame. (*Department of Correction; 210 IAC 6-2-10; filed Jan 31, 1996, 4:00 p.m.: 19 IR 1313; readopted filed Oct 22, 2002, 1:53 p.m.: 26 IR 882*)

210 IAC 6-2-11 “Recommended standard” defined

Authority: IC 11-8-2-5
Affected: IC 11-8-2

Sec. 11. “Recommended standard” is a standard that deals with issues not directly affecting the life, health, and safety of juveniles and personnel. Those standards adopted as a part of this article that are not mandatory are included in this section. (*Department of Correction; 210 IAC 6-2-11; filed Jan 31, 1996, 4:00 p.m.: 19 IR 1313; readopted filed Oct 22, 2002, 1:53 p.m.: 26 IR 882*)

210 IAC 6-2-12 “Secure” defined

Authority: IC 11-8-2-5
Affected: IC 11-8-2

Sec. 12. “Secure” means a facility that is designed and operated to ensure that all entrances and exits are under the exclusive control of the staff, thereby not allowing a juvenile to leave the facility unsupervised or without permission. (*Department of Correction; 210 IAC 6-2-12; filed Jan 31, 1996, 4:00 p.m.: 19 IR 1313; readopted filed Oct 22, 2002, 1:53 p.m.: 26 IR 882*)

210 IAC 6-2-13 “Standard” defined

Authority: IC 11-8-2-5
Affected: IC 11-8-2

Sec. 13. “Standard” means one (1) of the minimum standards produced by the ACA and contained in the publication, Standards for Juvenile Detention Facilities, Third Edition, May 1991 and all amendments or editions published through 1995 consistent with 210 IAC 6-3-1 through 210 IAC 6-3-9. (*Department of Correction; 210 IAC 6-2-13; filed Jan 31, 1996, 4:00 p.m.: 19 IR 1313; filed Nov 25, 2002, 9:30 a.m.: 26 IR 1064*)

Rule 3. Administration and Management

210 IAC 6-3-1 General provisions

Authority: IC 11-8-2-5; IC 31-31-8-2
Affected: IC 11-8-2; IC 31-31-8

Sec. 1. (a) Except as provided in this section, ACA standards 1A-01 through 1G-09 are adopted as a part of this article.

(b) The following ACA standards are deleted in their entirety:

- (1) 1A-03, 1A-05, 1A-08, 1A-10, 1A-14, 1A-15, 1A-17, 1A-23, 1A-25, and 1A-28.
- (2) 1B-02, 1B-04, 1B-09, 1B-10, 1B-12, 1B-13, 1B-16, 1B-17, and 1B-20.
- (3) 1C-03, 1C-06, 1C-09, 1C-10, 1C-11, and 1C-18.
- (4) 1D-02, 1D-03, 1D-06, 1D-10, 1D-11, and 1D-12.
- (5) 1F-02 and 1F-04.
- (6) 1G-06, 1G-07, and 1G-08.

(c) The following ACA standards are adopted as modified:

- (1) Change the last sentence of standard 1B-05 to read as follows: Facility staff’s participation in preparing the facility’s written budget request is encouraged.
- (2) Change standard 1B-08 to read, “Written policy, procedure, and practice demonstrate that the procedures for the collection, safeguarding, and disbursement of monies comply with the accounting procedures established by the state board of accounts and local policies. These policies shall be reviewed annually and updated as needed.”
- (3) Change standard 1C-13 to read, “A criminal record and sex offender registry check is conducted on all new employees in accordance with state and federal statutes.”
- (4) Change standard 1C-22 to read, “Written policy, procedure, and practice provide that employees, consultants, volunteers and contract personnel who work with juveniles are informed in writing about the facility’s policies on confidentiality of

information and agree to abide by them in writing.”.

(5) Change the first sentence of standard 1D-08 to read, “Written policy, procedure, and practice provide that all managerial staff receive forty (40) hours of training in addition to orientation training during their first year of employment and forty (40) hours of training each year thereafter.”.

(6) Change the first sentence of standard 1D-09 to read, “Written policy, procedure, and practice provide that all new juvenile staff careworkers receive an additional one hundred twenty (120) hours of training during their first year of employment.”.

(7) Add new standard 1D-09A to read, “Written policy, procedure, and practice provide that all juvenile staff careworkers receive an additional forty (40) hours of training each calendar year.”.

(8) Change standard 1D-13 to read, “All part-time staff, volunteers, support and administrative staff and contract personnel receive formal orientation appropriate to their assignments and additional training as needed.”.

(9) Change standard 1G-04 to read, “Written policy, procedure, and practice provide that the program director curtails, postpones, or terminates the services of a volunteer or volunteer organization when there is a reason for doing so.”.

(Department of Correction; 210 IAC 6-3-1; filed Jan 31, 1996, 4:00 p.m.: 19 IR 1313; filed Nov 25, 2002, 9:30 a.m.: 26 IR 1064)

210 IAC 6-3-2 Physical plant

Authority: IC 11-8-2-5; IC 31-31-8-2

Affected: IC 11-8-2; IC 31-31-8

Sec. 2. (a) Except as provided in this section, ACA standards 2A-01 through 2G-02 are adopted as a part of this article.

(b) ACA standards 2B-02, 2B-08, and 2D-02 are deleted in their entirety.

(c) In ACA standard 2A-04, change “recognized” to “applicable”.

(d) Change ACA standard 2B-04 to read, “Written policy and procedure provide that a replacement detention facility be constructed or an existing facility be expanded only after a needs evaluation study has been completed by the parent agency or other appropriate agency. A copy of this study must accompany blueprints submitted to the department for review.”.

(e) Change subsection 3 of ACA standard 2C-03 to read, “a bed, desk, and seating.”. *(Department of Correction; 210 IAC 6-3-2; filed Jan 31, 1996, 4:00 p.m.: 19 IR 1313; filed Nov 25, 2002, 9:30 a.m.: 26 IR 1065)*

210 IAC 6-3-3 Institutional operations

Authority: IC 11-8-2-5; IC 31-31-8-2

Affected: IC 11-8-2; IC 31-31-8

Sec. 3. (a) Except as provided in this section, ACA standards 3A-01 through 3E-05 are adopted as a part of this article.

(b) The following ACA standards are deleted in their entirety:

(1) 3A-03.

(2) 3A-11.

(3) 3A-12.

(4) 3A-17.

(5) 3B-08.

(6) 3B-09.

(7) 3E-01.

(8) 3E-02.

(9) 3E-03.

(10) 3E-04.

(11) 3E-05.

(c) The following ACA standards are adopted as modified:

(1) Change the first sentence of standard 3A-13 to read, “The facility has a system for physically counting juveniles and maintains a daily report on juvenile population movement.”.

(2) Change standard 3A-20 to read, “Written policy, procedure, and practice provide that manual or instrument inspection of body cavities is conducted only when there is reason to do so. Except in the case of an emergency, inspection is conducted only when authorized by the facility administrator or designee. The inspection is conducted in private by health care personnel

only.”

(3) Change standard 3A-21 to read, “Written policy, procedure, and practice provide that strip searches and visual inspection of juvenile private body cavities be conducted based on a reasonable belief that the juvenile is carrying contraband or other prohibited material. The inspection is conducted in private by a trained staff member of the same sex as the juvenile.”

(4) Change standard 3A-26 to read, “Written policy, procedure, and practice govern the availability, control, and use of chemical agents and related security devices and specify the level of authority required for their access and use.”

(5) Change standard 3B-06 to read, “The facility has access to an alternate power source to maintain the following minimum essential services in an emergency: lighting, heating and ventilation, water, security systems and communications systems.”

(6) Change standard 3C-08 to read, “Written policy, procedure, and practice specify the circumstances which justify room restriction and limit the time period to one (1) hour unless an extension is approved by the facility administrator or designee. Juveniles placed on room restriction are checked visually by staff at least every fifteen (15) minutes.”

(7) Change standard 3C-12 to read, “Written policy, procedure, and practice require that a juvenile charged with a major violation of facility rules is given a written copy of the alleged rule violation or violations within twenty-four (24) hours of the alleged violation or violations or the conclusion of the investigation into the alleged violation or violations. A hearing may be held within the subsequent twenty-four (24) hour period with the juvenile’s written consent.”

(8) Change standard 3C-14 to read, “Written policy, procedure, and practice provide that disciplinary hearings on rule violations are conducted by an impartial person or a disciplinary committee appointed by the facility administrator or designee. A record of the proceedings is made and maintained for at least six (6) months.”

(9) The “Comment” that follows standard 3C-21 is added as part of the standard.

(10) Change standard 3D-07 to read, “Written policy, procedure, and practice allow freedom in personal grooming and dress unless a safety, security, or hygiene concern justifies otherwise.”

(Department of Correction; 210 IAC 6-3-3; filed Jan 31, 1996, 4:00 p.m.: 19 IR 1314; filed Nov 25, 2002, 9:30 a.m.: 26 IR 1065)

210 IAC 6-3-4 Facility services

Authority: IC 11-8-2-5; IC 31-31-8-2

Affected: IC 11-8-2; IC 31-31-8

Sec. 4. (a) Except as provided in this section, ACA standards 4A-01 through 4C-48 are included as a part of this article.

(b) The following ACA standards are deleted in their entirety:

(1) 4B-09.

(2) 4C-03.

(3) 4C-05.

(4) 4C-19.

(5) 4C-23.

(6) 4C-30.

(7) 4C-31.

(8) 4C-32.

(c) The following ACA standards are adopted as modified:

(1) Change standard 4A-01 to read, “A staff member, experienced in food service management, supervises food service operations.”

(2) Change standard 4A-03 to read, “There is documentation that the facility’s system of dietary allowance is reviewed at least annually by a dietician or state authorized agency to ensure compliance with nationally recommended food allowances.”

(3) Change standard 4A-05 to read, “The food service plan provides for a single menu so that all juveniles and staff, except those on a special diet, eat the same meals.”

(4) Change standard 4A-11 to read, “Shelf goods, refrigerated foods, and frozen foods shall be maintained at temperatures established under the Indiana state department of health standards.”

(5) After the second sentence of standard 4A-13, add, “Snacks and food will be available for special occasions such as late night admissions.”

(6) After the second sentence of standard 4B-12, add, “Policy and procedures will address the special linen needs of the juveniles.”

- (7) After the third sentence of standard 4C-01, add, "The health authority shall meet at least quarterly with the facility administrator."
- (8) Change standard 4C-16 to read, "Written policy, procedure, and practice specify the provision of mental health services for juveniles and assure juvenile detention facilities are not intended to be mental health treatment facilities."
- (9) Change standard 4C-20 to read, "The person administering medications has training approved by the responsible physician, and the official responsible for the facility, is accountable for administering medications according to orders, and records the administration of medications in a manner and on a form approved by the responsible physician."
- (10) Change standard 4C-21 as follows: Insert "hearing problems" and "eye problems" in the "Inquiry into" list, after:
- (A) "mental health problems", insert "hearing problems" and "eye problems"; and
 - (B) "suicide", insert "attempt".
- (11) Change standard 4C-25 by deleting the second and third items listed after "This care includes the following:".
- (12) Change the first sentence of standard 4C-27 to read, "Written policy, procedure, and practice provide that juvenile careworker staff and other personnel are trained to respond to health related situations within a four-minute response time."
- (13) Add, as a part of standard 4C-29, "For facilities that operate with no more than twenty (20) juveniles, sick call must be available at a minimum of once per week."
- (14) Change standard 4C-36 to read, "Written policy, procedure, and practice specify approved actions to be taken by employees concerning juveniles who have been diagnosed HIV-positive or who have hepatitis-B. The policy shall include, at a minimum, the following:
- (A) When and where juveniles are to be tested.
 - (B) Appropriate safeguards for staff and juveniles.
 - (C) When and under what conditions juveniles are to be separated from general population.
 - (D) Staff and juvenile training procedures.
 - (E) Issues of confidentiality."
- (15) Change standard 4C-39 to read, "Written policy, procedure, and practice provide for screening, care, or referral for care for mentally ill or retarded juveniles. The responsible physician shall designate, in advance, specific referral sources. Policy and procedures shall provide for emergency transfers to mental health facilities. Emergency transfers shall be reported to the court the next working day."
- (16) Change standard 4C-41 to read, "Written policy, procedure, and practice provide for the clinical management of chemically dependent juveniles."
- (17) Change standard 4C-47 to read, after "2" and prior to "access", insert "Physical".

(Department of Correction; 210 IAC 6-3-4; filed Jan 31, 1996, 4:00 p.m.: 19 IR 1314; filed Nov 25, 2002, 9:30 a.m.: 26 IR 1066)

210 IAC 6-3-5 Juvenile services

Authority: IC 11-8-2-5; IC 31-31-8-2

Affected: IC 11-8-2; IC 31-31-8

Sec. 5. (a) Except as provided in this section, ACA standards 5A-01 through 5H-07 are adopted as a part of this rule.

(b) The following ACA standards are deleted in their entirety:

- (1) 5A-01, 5A-03, 5A-04, 5A-05, 5A-07, 5A-08, 5A-09, 5A-10, 5A-12, and 5A-13.
- (2) 5B-02 and 5B-03.
- (3) 5D-02.
- (4) 5H-01, 5H-05, and 5H-06.

(c) The following ACA standards are adopted as modified:

- (1) In the first sentence of standard 5A-02, after "juveniles", delete "new".
- (2) Change standard 5A-06 to read, "Written policy, procedure, and practice ensure that any juvenile placed in detention or shelter care shall be brought before the juvenile court consistent with state law."
- (3) Change standard 5A-11 to read "Written policy, procedure, and practice grant all juveniles the right to complete at least one local or collect long distance telephone call to a family member, attorney, or other approved individual during the admissions process."
- (4) At the end of standard 5B-01, delete "treatment" and insert "services".

(5) Change standard 5E-01 to read, "The facility has a qualified staff member who shall direct and supervise all recreation programs."

(6) Change standard 5H-03 to read, "Juveniles shall be provided a copy of all specific release information received in writing at the facility, and the decision is recorded in the case record."

(7) Change standard 5H-07 to read, "Written policy, procedure, and practice provide for and govern leaves into the community."

(Department of Correction; 210 IAC 6-3-5; filed Jan 31, 1996, 4:00 p.m.: 19 IR 1315; filed Nov 25, 2002, 9:30 a.m.: 26 IR 1067)

210 IAC 6-3-6 References to ACA standards

Authority: IC 11-8-2-5

Affected: IC 11-8-2

Sec. 6. (a) When reference is made to any of the following within the ACA standards publication, such reference is for information purposes only:

(1) A "Principle" stated at the beginning of a section.

(2) The "Comment" listed following each standard except as provided in section 3(c)(6) of this rule.

(3) Appendices "A" and "B".

(4) Glossary.

(b) Subsection (a) is:

(1) not adopted as part of this article; and

(2) not enforceable as part of this article.

(Department of Correction; 210 IAC 6-3-6; filed Jan 31, 1996, 4:00 p.m.: 19 IR 1315; readopted filed Oct 22, 2002, 1:53 p.m.: 26 IR 882)

210 IAC 6-3-7 Dispositional programs

Authority: IC 11-8-2-5

Affected: IC 11-8-2

Sec. 7. Juvenile detention facilities operating dispositional programs shall comply with guidelines established by the Indiana judicial conference on January 15, 1994. *(Department of Correction; 210 IAC 6-3-7; filed Jan 31, 1996, 4:00 p.m.: 19 IR 1316; readopted filed Oct 22, 2002, 1:53 p.m.: 26 IR 882)*

210 IAC 6-3-8 Inspection of juvenile detention facilities

Authority: IC 11-8-2-5

Affected: IC 11-8-2

Sec. 8. The department shall inspect each juvenile detention facility at least annually to determine whether it is in compliance with this article. *(Department of Correction; 210 IAC 6-3-8; filed Jan 31, 1996, 4:00 p.m.: 19 IR 1316; readopted filed Oct 22, 2002, 1:53 p.m.: 26 IR 882)*

210 IAC 6-3-9 Construction of juvenile detention facilities

Authority: IC 11-8-2-5; IC 31-31-8-2

Affected: IC 11-8-2; IC 31-31-8

Sec. 9. Prior to the construction or expansion of a juvenile detention facility, plans and specifications shall be submitted to the department for review and comment. Plans and specifications shall satisfy all physical plant standards contained in section 2 of this rule. The department's written review shall be provided to fire and building services for plan release within ten (10) working days from the date of receipt. *(Department of Correction; 210 IAC 6-3-9; filed Jan 31, 1996, 4:00 p.m.: 19 IR 1316; filed Nov 25, 2002, 9:30 a.m.: 26 IR 1067)*

210 IAC 6-3-10 Compliance with mandatory and physical plant standards

Authority: IC 11-8-2-5; IC 31-31-8-2
Affected: IC 11-8-2; IC 31-31-8

Sec. 10. A new juvenile detention facility shall not begin operation until the department has determined through inspection that the facility is in compliance with all mandatory and physical plant standards. (*Department of Correction; 210 IAC 6-3-10; filed Jan 31, 1996, 4:00 p.m.: 19 IR 1316; filed Nov 25, 2002, 9:30 a.m.: 26 IR 1068*)

210 IAC 6-3-11 Compliance

Authority: IC 11-8-2-5; IC 31-31-8-2
Affected: IC 11-8-2; IC 31-31-8

Sec. 11. (a) In order to achieve and maintain provisional compliance with this article, a new juvenile detention facility shall have been determined through inspection to be in compliance with the following:

- (1) All mandatory standards.
- (2) A minimum of seventy-five percent (75%) of the recommended standards within one (1) year of commencing operation.
- (3) All physical plant standards.

(b) In order to achieve and maintain full compliance with standards adopted under this article, a juvenile detention facility shall have been determined through inspection to be in compliance with the following:

- (1) All mandatory standards.
- (2) A minimum of ninety percent (90%) of the recommended standards within two (2) years of commencing operation and each year thereafter.

(c) A certification in writing, either full or provisional, shall be issued by the department to all juvenile detention facilities that achieve compliance.

(d) Should a new or existing facility fail to achieve or maintain the required level of compliance with this article, a plan of action shall be submitted to the department within thirty (30) days to correct each deficiency. Approved plans of action shall remain valid for a period not to exceed one (1) year.

(e) In the event a plan of action is not approved, compliance with this article is not achieved within one (1) year or the deficiencies are so severe as to affect life, health, or safety, the department may petition the judge of the circuit court in the county in which the facility is located to restrict, alter the use of, or close the facility. (*Department of Correction; 210 IAC 6-3-11; filed Jan 31, 1996, 4:00 p.m.: 19 IR 1316; errata filed Mar 8, 1996, 2:00 p.m.: 19 IR 2044; filed Nov 25, 2002, 9:30 a.m.: 26 IR 1068*)

210 IAC 6-3-12 Severability

Authority: IC 11-8-2-5
Affected: IC 11-8-2

Sec. 12. If any rule, section, subsection, or subdivision of this article is for any reason held to be unconstitutional, contrary to statute, exceeding the authority of the department, or otherwise inoperative, such decision does not affect the validity of the remaining portion of the article. (*Department of Correction; 210 IAC 6-3-12; filed Jan 31, 1996, 4:00 p.m.: 19 IR 1316; readopted filed Oct 22, 2002, 1:53 p.m.: 26 IR 882*)

ARTICLE 7. OFFENDER HEALTH CARE CO-PAYMENT PROCEDURES

Rule 1. General Provisions; Applicability

210 IAC 7-1-1 Definitions; applicability

Authority: IC 11-10-3-5
Affected: IC 11-10-3

Sec. 1. The definitions in this rule apply throughout this article. (*Department of Correction; 210 IAC 7-1-1; filed Apr 30,*

1997, 9:00 a.m.: 20 IR 2284; readopted filed Jul 14, 2003, 10:50 a.m.: 26 IR 3960)

210 IAC 7-1-2 “Chronically prescribed medication” defined

Authority: IC 11-10-3-5

Affected: IC 11-10-3

Sec. 2. “Chronically prescribed medication” means a drug or substance prescribed repeatedly over a prolonged period of time, usually in the treatment of a chronic illness. (*Department of Correction; 210 IAC 7-1-2; filed Apr 30, 1997, 9:00 a.m.: 20 IR 2284; readopted filed Jul 14, 2003, 10:50 a.m.: 26 IR 3960*)

210 IAC 7-1-3 “Co-payment” defined

Authority: IC 11-10-3-5

Affected: IC 11-10-3

Sec. 3. “Co-payment” means the share of the costs of providing health care related services or goods paid by an offender. (*Department of Correction; 210 IAC 7-1-3; filed Apr 30, 1997, 9:00 a.m.: 20 IR 2284; readopted filed Jul 14, 2003, 10:50 a.m.: 26 IR 3960*)

210 IAC 7-1-4 “Department” defined

Authority: IC 11-10-3-5

Affected: IC 11-10-3

Sec. 4. “Department” means department of correction. (*Department of Correction; 210 IAC 7-1-4; filed Apr 30, 1997, 9:00 a.m.: 20 IR 2284; readopted filed Jul 14, 2003, 10:50 a.m.: 26 IR 3960*)

210 IAC 7-1-5 “Health care services” defined

Authority: IC 11-10-3-5

Affected: IC 11-10-3

Sec. 5. “Health care services” means any services, including medical, dental, eye, or hearing care, or pharmacy provided by the department to offenders. These services may be provided either by department staff, through a contract, or by a private provider selected by the department. Mental health services and the prescription of psychotropic or neuroleptic medications are not included in these services. (*Department of Correction; 210 IAC 7-1-5; filed Apr 30, 1997, 9:00 a.m.: 20 IR 2284; readopted filed Jul 14, 2003, 10:50 a.m.: 26 IR 3960*)

210 IAC 7-1-6 “Health care services staff” defined

Authority: IC 11-10-3-5

Affected: IC 11-10-3

Sec. 6. “Health care services staff” means health care professionals, including:

- (1) physicians;
- (2) nurses;
- (3) dentists;
- (4) optometrists; and
- (5) specialists;

who are either staff or provide services to the department at the request of the department. (*Department of Correction; 210 IAC 7-1-6; filed Apr 30, 1997, 9:00 a.m.: 20 IR 2284; readopted filed Jul 14, 2003, 10:50 a.m.: 26 IR 3960*)

210 IAC 7-1-7 “Neuroleptic medication” defined

Authority: IC 11-10-3-5
Affected: IC 11-10-3

Sec. 7. “Neuroleptic medication” means psychotropic medication utilized to control psychotic thinking or behavior. (*Department of Correction; 210 IAC 7-1-7; filed Apr 30, 1997, 9:00 a.m.: 20 IR 2285; readopted filed Jul 14, 2003, 10:50 a.m.: 26 IR 3960*)

210 IAC 7-1-8 “Offender” defined

Authority: IC 11-10-3-5
Affected: IC 11-10-3

Sec. 8. “Offender” means any person committed to the department and who is housed in a department facility. (*Department of Correction; 210 IAC 7-1-8; filed Apr 30, 1997, 9:00 a.m.: 20 IR 2285; readopted filed Jul 14, 2003, 10:50 a.m.: 26 IR 3960*)

210 IAC 7-1-9 “Psychotropic medication” defined

Authority: IC 11-10-3-5
Affected: IC 11-10-3-5

Sec. 9. “Psychotropic medication” means a drug or substance which exerts an effect upon the mind and is capable of modifying mental activity. (*Department of Correction; 210 IAC 7-1-9; filed Apr 30, 1997, 9:00 a.m.: 20 IR 2285; readopted filed Jul 14, 2003, 10:50 a.m.: 26 IR 3960*)

210 IAC 7-1-10 Applicability of article

Authority: IC 11-10-3-5
Affected: IC 11-10-3

Sec. 10. (a) This article is applicable to all offenders committed to the department, except those offenders who:

(1) maintain a policy of health care insurance from a private company that will be in effect during the offender's incarceration and will cover:

- (A) medical care;
- (B) dental care;
- (C) eye care; or
- (D) any other health care related service; or

(2) are willing and able to pay for their own medical care.

(b) All other offenders not covered in subsection (a) who are committed to the department shall be required to make a co-payment for covered health care services unless:

- (1) the offender does not have funds in the Inmate Trust Fund account at the time the service is provided;
- (2) the offender does not have funds in the Inmate Trust Fund account within thirty (30) days after the service is provided;
- (3) the service is provided in an emergency;
- (4) the service is provided as a result of an injury received while in the custody of the department; or
- (5) the specific services are provided at the request of the facility head or designee.

(*Department of Correction; 210 IAC 7-1-10; filed Apr 30, 1997, 9:00 a.m.: 20 IR 2285; readopted filed Jul 14, 2003, 10:50 a.m.: 26 IR 3960*)

Rule 2. Health Care Services

210 IAC 7-2-1 Access

Authority: IC 11-10-3-5
Affected: IC 11-10-3

Sec. 1. (a) All offenders shall be entitled to the following:

- (1) Medical care, medical personnel, and medical facilities of a quality complying with applicable state licensing requirements.
- (2) First-aid or emergency treatment on a twenty-four (24) hour basis.
- (3) Mental health care by a psychiatrist, a psychologist, or another mental health professional.

(b) Only those health care services authorized by the department, and in accordance with department procedures and health care directives, shall be available to offenders. Offenders seeking health care services shall be required to obtain the authorized services from health care professionals designated by the department. Offenders shall not be allowed to choose either the health care professional or the location where such services are provided.

(c) No offender shall be denied health care services by anyone other than a qualified health care professional who has made a determination, based upon professional judgement, that the requested services are not appropriate.

(d) No offender shall be denied health care services due to a lack of sufficient funds in the Inmate Trust Fund account to make the required co-payment.

(e) All offenders who have been committed to the department, but who are housed in a county jail, shall be subject to the rules of the county jail in which they are housed. Any co-payment for health care services shall be as determined by the rules of the county jail. (*Department of Correction; 210 IAC 7-2-1; filed Apr 30, 1997, 9:00 a.m.: 20 IR 2285; readopted filed Jul 14, 2003, 10:50 a.m.: 26 IR 3960*)

210 IAC 7-2-2 Covered health care services

Authority: IC 11-10-3-5

Affected: IC 11-10-3

Sec. 2. Unless specifically exempted from this chapter, all health care services provided by the department shall require an offender co-payment. Co-payments shall not be required for the following:

- (1) Mental health services.
- (2) Substance abuse services.
- (3) Staff-initiated contacts, such as the following:
 - (A) Initial health care screenings.
 - (B) Transfer screenings.
 - (C) Annual or age appropriate screenings.
 - (D) Written referrals from one (1) health care professional to another.
 - (E) Follow-up appointments with specialists or designated health care professionals.
- (4) Immunizations and tests, such as tuberculosis skin tests, and other treatments instituted by the department for public health reasons.
- (5) Ancillary services, such as lab work or x-rays.
- (6) Admission to a hospital or emergency room services.
- (7) Health care supplies, such as the following:
 - (A) Braces.
 - (B) Stockings.
 - (C) Ostomy supplies.
 - (D) Dentures.
 - (E) Eyeglasses.
- (8) Review of charts or meetings with offenders for interfacility transfers.

(*Department of Correction; 210 IAC 7-2-2; filed Apr 30, 1997, 9:00 a.m.: 20 IR 2285; readopted filed Jul 14, 2003, 10:50 a.m.: 26 IR 3960*)

210 IAC 7-2-3 Amount of co-payments

Authority: IC 11-10-3-5

Affected: IC 11-10-3

Sec. 3. (a) The amounts charged for covered health care shall be as follows:

(1) For all offender-initiated contact with a covered health care professional (including physicians, nurses, dentists, optometrists, and specialists in the medical, dental, or optometric fields), five dollars (\$5).

(2) For all initial prescriptions of medications or medications provided, at a single visit, with the exception of psychotropic and neuroleptic medications, five dollars (\$5).

(b) There shall be no co-payment for renewal of chronically prescribed medication following the initial prescription of the medication. Additionally, there shall be no co-payment for renewal of medication that is prescribed as a part of a treatment program that will require a follow-up evaluation requested by the health care services staff. (*Department of Correction; 210 IAC 7-2-3; filed Apr 30, 1997, 9:00 a.m.: 20 IR 2286; readopted filed Jul 14, 2003, 10:50 a.m.: 26 IR 3960*)

210 IAC 7-2-4 Request for health care services; offender-initiated

Authority: IC 11-10-3-5

Affected: IC 11-10-3

Sec. 4. (a) Any offender may request health care services at any time. An offender shall not be denied access to health care services due to the inability to make the required co-payment. Additionally, only health care staff shall make the decision that an offender does not need to see a health care professional.

(b) An offender desiring to see a health care professional shall obtain State Form 45913, "Request for Health Care," from a designated source. The offender shall complete the offender portion of the form indicating the type of request and the nature of the complaint or request. The offender shall be required to sign and date State Form 45913. An offender who refuses to sign or date State Form 45913 shall be provided access to the health care staff. The staff person receiving the form shall sign the form indicating that the offender refused to sign. Refusal to sign the form shall not prevent the department from withdrawing the appropriate co-payment from the offender's Inmate Trust Fund account.

(c) In the case where an offender cannot complete State Form 45913 due to illiteracy or physical inability, a staff person shall complete the form for the offender. When a staff person completes the form on behalf of the offender, the request shall be considered as an offender-initiated request. The staff person assisting the offender shall ensure that the offender portion of State Form 45913 is completed and that it is forwarded to the health care services staff.

(d) Each facility shall ensure that sufficient copies of State Form 45913 are available for offender use. Copies of State Form 45913 shall be made available, at a minimum, at the following locations:

(1) In control posts, housing units, and work or program assignment areas.

(2) Through the offender counselors.

Offenders shall have access to these forms at any time.

(e) Upon completion of the form, the offender shall submit State Form 45913 in accordance with the established procedures of the facility. The staff person receiving the form shall ensure that the form is forwarded to the appropriate health care services staff as quickly as possible and in accordance with facility procedures.

(f) Health care staff shall review the form to determine whether it is completed correctly and to make a preliminary determination as to what action shall be taken. If the request is determined to be appropriate, the health care staff shall make the necessary arrangements to see the offender and follow the applicable department procedures and health care services directives.

(g) Designated health care services staff shall complete the health care services staff portion of State Form 45913. Health care services staff shall indicate whether the provided service is a co-payment authorized service and shall so indicate on the form. A copy of this form shall be filed in the offender's health care record. If a co-payment is to be charged, the remaining copies of the form shall be forwarded to the facility business office. (*Department of Correction; 210 IAC 7-2-4; filed Apr 30, 1997, 9:00 a.m.: 20 IR 2286; errata filed Jul 1, 1997, 9:55 a.m.: 20 IR 3016; readopted filed Jul 14, 2003, 10:50 a.m.: 26 IR 3960*)

210 IAC 7-2-5 Request for health care services; staff-initiated

Authority: IC 11-10-3-5

Affected: IC 11-10-3

Sec. 5. (a) In certain cases, staff may determine that an offender is in need of services provided by health care professionals. These cases may include those times indicated in section 2 of this rule and when staff feel that an offender may require immediate or emergency care.

(b) When staff initiate an offender's health care services contact, the staff person making the request shall contact the facility's health care services staff. The staff person shall indicate that the contact is staff-initiated and explain the apparent need for the services. Health care services staff shall determine whether it will be necessary for the offender to be seen.

(c) Health care services staff shall complete State Form 45913 at the time that the services are provided. The completed State Form 45913 shall be distributed as necessary. (*Department of Correction; 210 IAC 7-2-5; filed Apr 30, 1997, 9:00 a.m.: 20 IR 2287; readopted filed Jul 14, 2003, 10:50 a.m.: 26 IR 3960*)

210 IAC 7-2-6 Payment for services

Authority: IC 11-10-3-5

Affected: IC 11-10-3

Sec. 6. (a) The processing of requests of co-payment shall be done on the same cycle as commissary purchases. Health care services co-payments shall be posted to the Inmate Trust Fund account prior to the processing of commissary orders. Withdrawals from the Inmate Trust Fund for co-payment of health care service shall be made prior to any other withdrawal, except for those withdrawals mandated by statute, court order, or department disciplinary actions. An offender shall not be authorized to make any purchases or obtain any monies from the Inmate Trust Fund until such time as all outstanding health care services co-payments have been withdrawn from the account.

(b) After the requested services have been provided, the designated health care services staff shall ensure that the health care staff portion of State Form 45913 is completed. Health care staff shall indicate whether a co-payment is required and, if so, the amount that is to be withdrawn from the offender's account. The health care services staff person completing the form shall sign and date the form.

(c) Following the completion of the designated portion of State Form 45913, health care services staff shall forward the two (2) copies of the form to the facility's business office, when the services require an offender co-payment. The facility shall designate a staff person in the business office to receive these forms. This person shall have access to the Inmate Trust Fund.

(d) Upon receipt of State Form 45913, the designated business office staff shall review the form and determine the amount of co-payment that is to be withdrawn from the offender's account. Following this review, the business office staff person shall review the offender's Inmate Trust Fund account. A determination shall be made as to whether the offender has sufficient funds available in the trust fund account to make the indicated co-payment. If there are sufficient funds available to make the indicated co-payment, the staff person shall withdraw that amount from the offender's account. A notation shall be made on the State Form 45913 indicating the amount withdrawn from the offender's account and the date. The staff person making the withdrawal shall sign the form. A copy shall be returned to the offender and a copy filed in the designated file.

(e) When a co-payment is required and the offender does not have sufficient monies in the Inmate Trust Fund, the staff person shall place an administrative hold on the offender's account. This hold shall be dated and shall remain in effect for a period of thirty (30) days. During the thirty (30) day period, if the offender receives any funds in the Inmate Trust Fund, the co-payment shall be made prior to any other offender-initiated withdrawals and the hold released. The payment of the health care services co-payment shall take a priority over any other withdrawals from the offender's account, except those mandated by statute, court order, or department disciplinary action.

(f) In those cases where an offender does not receive sufficient funds to cover the co-payment within the thirty (30) day period of the hold, the amount available in the account will be deducted and the hold removed from the account. Prior to the end of the thirty (30) day hold, the designated business office staff person shall review the offender's Inmate Trust Fund account to determine the balance of the account. If sufficient funds are not available to cover the entire cost of the health care services co-payment, the staff person shall withdraw whatever amount is available in the account and apply it toward the co-payment. The amount deducted from the offender's account shall be considered full payment of the health care services co-payment. After the thirty (30) day period of the hold, the hold on the account shall be removed and the debt shall be considered retired. The facility shall not go beyond thirty (30) days from the date of the service in order to try to recover the co-payment. The facility's business office or designated staff shall be responsible for ensuring that the hold is removed at the end of the thirty (30) day period.

(g) The designated staff person shall ensure that the business office portion of State Form 45913 is completed. The staff person shall indicate the total amount of funds deducted from the offender's account. A completed copy of the State Form 45913 shall be returned to the offender and a copy filed in the designated file. (*Department of Correction; 210 IAC 7-2-6; filed Apr 30, 1997, 9:00 a.m.: 20 IR 2287; errata filed Jul 1, 1997, 9:55 a.m.: 20 IR 3016; readopted filed Jul 14, 2003, 10:50 a.m.: 26 IR 3960*)

210 IAC 7-2-7 Grievances

Authority: IC 11-10-3-5

Affected: IC 11-10-3

Sec. 7. An offender may challenge any order for health care services co-payment or any action relevant to payment for health care services in accordance with the procedures for Policy 00-02-301, "The Offender Grievance Process". (*Department of Correction; 210 IAC 7-2-7; filed Apr 30, 1997, 9:00 a.m.: 20 IR 2288; readopted filed Jul 14, 2003, 10:50 a.m.: 26 IR 3960*)

*